

**TOWN OF NARRAGANSETT  
ENGINEERING DEPARTMENT  
DEPARTMENT OF PUBLIC WORKS**

**REQUEST FOR BIDS**

**TOWN BEACH SOUTH PARKING LOT  
RE-PAVING**

Narragansett, Rhode Island



Jeffry Ceasrine, P.E.  
Town Engineer

**Bid Date: April 8, 2013 @ 11:00 AM**

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## INVITATION TO BID

Separate sealed bids will be received by the **TOWN OF NARRAGANSETT, RHODE ISLAND** for the **TOWN BEACH SOUTH PARKING LOT RE-PAVING** on or before **11:00 a.m. on Monday, April 8, 2013** at the office of the Purchasing Agent, 25 Fifth Avenue, Narragansett, Rhode Island and at that time will be opened and read in public.

**Note – This project is time sensitive, and must be completed on or before May 17, 2013.**

Specifications may be obtained at the Purchasing Office, 25 Fifth Avenue, Narragansett, Rhode Island between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, and are available on the Town website, [www.narragansettri.gov](http://www.narragansettri.gov).

All bids must be submitted on the bid form provided, in duplicate and clearly marked:

(Sealed Bid)

### **TOWN BEACH SOUTH PARKING LOT RE-PAVING**

Bids must be enclosed in an opaque envelope addressed to "Purchasing Agent, Town Hall, 25 Fifth Avenue, Narragansett, Rhode Island 02882" bearing the name and address of the Bidder.

Bid Security, in the form identified within the Standard Instructions To Bidders, and in the amount of five (5) percent of the total Bid amount, must accompany each Bid.

The successful Bidder must furnish a Performance Bond and a Labor and Material Payment Bond, in the specific formats as attached herein, both for the full value of the Bid Price, along with all required insurance certificates, within fifteen (15) calendar days after the award date in order to execute a Contract.

No Bidder may withdraw his Bid within ninety (90) days after the scheduled closing time for receipt of Bid.

The Town of Narragansett reserves the right to reject any/all Bids, waive any informalities in the Bids received, and to accept the Bid deemed most favorable to the interest of the Town of Narragansett.

Individuals requesting interpreter services for the hearing impaired must notify the Finance Department (401)782-0644 three (3) business days prior to the bid opening.

Susan W. Gallagher  
Purchasing Agent

STANDARD INSTRUCTIONS TO BIDDERS

DEPARTMENT OF FINANCE-PURCHASING DIVISION

TOWN OF NARRAGANSETT, RHODE ISLAND

THESE INSTRUCTIONS ARE STANDARD FOR ALL PROPOSALS ISSUED BY THE PURCHASING DIVISION AND MAY BE DELETED, OR MODIFIED BY INDICATING SUCH CHANGE BY "SPECIAL INSTRUCTIONS TO BIDDERS."

1. Receipt and Opening of Proposal

Sealed proposals (bids) will be accepted in the office of the Purchasing Agent, Town of Narragansett, R.I. until the time indicated on the advertisement for Bids, for the commodities, equipment or services designated in the specifications and will then be publicly opened and read.

2. Form of Bid

Proposal must be submitted on and in accordance with the forms attached hereto, blank places must be filled in as noted, no change shall be made in the phraseology of the proposal or in the item or items mentioned therein, must contain the name and proper address of the bidding firm, and must be signed by a responsible member of the firm with his/her signature and official title. Proposals that are not complete, or contain any omissions, erasures, alterations, additions or contain irregularities of any kind, may be rejected.

3. Submission of Bids

- a. Envelopes containing bids must be sealed and addressed to the office of the Purchasing Agent, Town Hall, Narragansett, R.I. 02882 and must be marked with the name and address of bidder, date and hour of opening, and name of bid.
- b. The Purchasing Agent will decide when the specified time has arrived to open bids, and no bid received thereafter will be considered.
- c. Any bidder may withdraw his/her bid by written request at any time prior to the advertised time for opening. Telephonic bids, amendments, or withdrawals will not be accepted.

- d. Unless otherwise specified, no bid may be withdrawn for a period of ninety (90) days from the date of bid opening.
- e. Negligence on the part of the bidder in preparing the bid confers no rights for the withdrawal of the bid after it has been opened.
- f. Proposals received prior to the time of opening will be securely kept unopened. No responsibility will attach to an officer or person for the premature opening of a proposal not properly addressed and identified.

4. Prices

Bidders shall state the proposed price in the manner as designated in the Bid Proposal Form. In the event that there is a discrepancy between the unit prices and the extended totals, the unit prices shall govern. In the event there is a discrepancy between the price written in words and written in figures, the prices written in words shall govern.

5. Terms

Cash discounts offered will be considered in determining awards. The discount period shall be computed from the date of delivery or from the correct invoice as received by Town Treasurer, whichever date is later. The date of delivery shall be construed to mean the date on which bid item is determined to meet the specifications and is therefore acceptable. Discounts for a period less than thirty (30) days may not be considered.

6. Rhode Island Sales Tax

The Town is exempt from the payment of R.I. Sales Tax under the 1956 General Laws of the State of Rhode Island, 44-18-30 Paragraph 1, as amended.

7. Federal Excise Taxes

The Town is exempt from the payment of any excise or federal transportation taxes. The price bid must be exclusive of taxes and will be so construed.

8. "Or Equal" Bidding

When the name of a manufacturer, a brand name, or

manufacturer's catalogue number is issued as the bid standard in describing an item followed by "Or Equal" this description is used to indicate quality, performance and other essential characteristics of the article required.

If bidding on other than the make, model, brand or sample specified, but equal thereto, bidder must so state by giving the manufacturer's name, catalogue number and any other information necessary to prove that the intended substitution of a commodity is equal in all essential respects to the bid standard. Bidder must prove to the satisfaction of the Town Manager or by person or persons designated by him, that his/her designated substitute is equal to the bid standard: otherwise, his/her bid will be declared "No Bid" insofar as the item in question is concerned.

9. Award and Contract

Unless otherwise specified, the Town reserves the right to make award by item or items, or by total, as may be in the best interest of the Town. A written award (or acceptance of Bid) mailed (or otherwise furnished) to the successful bidder followed by a Town Purchase Order shall, unless otherwise specified, be deemed to result in a binding contract without further action by either party.

10. Delivery

All prices must be on the basis of F.O.B. Delivery Point Narragansett, Rhode Island. The bid prices must include delivery and shipping to the Town. No additional shipping, handling, or fuel surcharge costs will be honored by the Town. Deliveries must consist only of new merchandise or equipment (unless otherwise specified) and shall be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. No delivery shall become due or be acceptable without a written Purchase Order issued by the Town Purchasing Agent.

11. Equal Employment Opportunity Policy Statement

For the purposes of this Policy, the term "vendor" shall mean any and all individuals, companies, corporations, and business entities that provide goods or services to the Town of Narragansett pursuant to any and all relevant and appropriate Federal, State, and local purchasing rules, regulations, and procedures.

The Town of Narragansett is committed to the general policy and principle of Equal Employment Opportunity in terms of retaining vendors to provide the Town with goods and services necessary for routine and emergency operations. The Town will not discriminate against vendors as entities, or individual employees thereof on any legally-recognized basis included, but not limited to, race, age, color, religion, sex, marital status, national origin, physical or mental disability, Veteran's status, pregnancy, sexual orientation, genetic conditions, predisposition to certain diseases, or ancestry, except where a bona fide occupational qualification exists.

12. Towns Right to Reject

The Town reserves the right to reject any and all proposals, to waive any informality in the proposals received and to accept the proposal deemed to be most favorable to the best interests of the Town.

13. Bond\Surety

Contractor awarded a contract with a contract price in excess of fifty thousand dollars (\$50,000) (or as may be amended under RIGL) for construction, buildings or public works is to file with the proper authority good and sufficient bond with surety furnished by any surety company authorized to do business in the State of Rhode island and in accordance with Chapters 37-12 and 37-13 of the General Laws of Rhode Island entitled "Contractors' Bonds", and "Labor and Payment of Debts by Contractors". The Contractor shall comply with all provisions of Chapters 37-12 and 37-13 of the RIGL, as may be amended.

14. Insurance

The CONTRACTOR shall provide the following insurances in accordance with the General Conditions:

A. Workmen's Compensation Insurance

The CONTRACTOR shall provide statutory Workmen's Compensation Insurance for all labor employed on the Project who may come within the protection of such laws and shall provide Employer's General Liability Insurance in the amount of \$500,000 for the benefit of his/her employees not protected by such compensation laws.

B. Contractor's Comprehensive Public Liability and Property Damage Liability Insurance

The CONTRACTOR shall carry Comprehensive General Liability Insurance with broad form of Contractual General Liability Endorsement attached, providing for a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of one (1) person, and subject to that a limit for each person, a total limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and Contractor's Comprehensive Property Damage Liability Insurance providing for a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one accident; and subject to a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property during the policy period.

C. Owner's Protective Liability and Property Damage Insurance

The CONTRACTOR shall provide the OWNER an insurance policy written in the name of the OWNER, its employees, servants and agents, and extended to include the interests of the Engineer, its employees, and agents; to protect the OWNER and the Engineer from any liability which might be incurred against them as a result of any operations of the CONTRACTOR or his/her subcontractors, or their employees. Such insurance shall provide for a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or the death of any one (1) person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one accident, and subject to a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property



during the policy period.

D. Comprehensive Automobile Liability and Property Damage Insurance

The CONTRACTOR shall carry Comprehensive Automobile Liability Insurance covering all owned vehicles, hired vehicles, or non-owned vehicles in the amount of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or the death of any one (1) person; and subject to that limit for each person a total of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and Property Damage coverage in the amount of not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property.

E. Insurance Covering Special Hazards

Special hazards shall be covered by rider or riders to the Public Liability Insurance And Property Damage Insurance policy or policies hereinabove required to be furnished by the CONTRACTOR, or by separate policies of insurance as follows:

1. Property Damage Liability arising out of the collapse of, or structural injury to any building or structure due to excavation (including borrowing, filling, or backfilling in connection therewith), tunneling, pile driving, cofferdam work, or caisson work; or to moving, shoring, underpinning, razing, or demolition of any building or structure, or removal or rebuilding of any structural support thereof.
2. Property Damage Liability for injury to or destruction of property arising directly or indirectly from blasting or explosions, however caused, other than pressure, prime movers, machinery or power-transmitting equipment.
3. Property Damage Liability for injury or destruction of wires, conduits, pipes, mains, sewers, or other similar property or any apparatus in connection therewith, below the surface of the ground, arising from and during the use of mechanical equipment for the purpose of excavating or drilling within the Project

limits; injury to or destruction of property at any time resulting therefrom.

4. The CONTRACTOR shall require similar insurance in such amounts to be taken out and maintained by each subcontractor.

F. Builders Risk Insurance

During the progress of Work, the CONTRACTOR shall effect and maintain BUILDERS' RISK INSURANCE ON COMPLETED VALUE FORM against loss by fire, lightning, windstorm, hurricane, cyclone, tornado, hail, explosion, riot, riot attending strike, aircraft, smoke and vehicle damage, vandalism, and malicious mischief upon all Work in place and all material stored at the building site, whether or not covered by partial payments made by the OWNER. This insurance shall be in an amount equal to 100 percent (100%) of the insurable portion of the Project and shall be for the benefit of the OWNER, the CONTRACTOR, and each subcontractor, as their interest may respectively appear.

If there are any existing adjacent or adjoining structures presently used by the OWNER, the risk of the existing adjacent or adjoining structures will be by the OWNER.

15. Labor Regulations

The following paragraphs regarding nondiscrimination in employment shall be included and become part of these Specifications:

- A. The Contract for Work under this proposal will obligate the contractor and subcontractors not to discriminate in employment practices and conform with Executive Order No. 11246.
- B. Bidders must, if required, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive award of the Contract.
- C. Successful bidders must, if required, submit a list of all subcontractors who will perform Work on the Project, and written signed statements from authorized agents of labor pools with which they will or may deal with for employees on the Work,

together with any information to the effect that such labor pools practices or policies are in conformity with Executive Order No. 11246; that they will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employment, and equal treatment of employees seeking employment and performing Work under this Contract; or a certification as to when such agents or labor pools have failed or refused to furnish them, prior to award of the Contract.

16. Wage Rates

Attention of the bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under the Contract. In conformity with the provisions of Chapter 13 of Title 37, General Laws, Rhode Island, 1956, as amended, the minimum wages for a day's work paid to craftsmen, teamsters and laborers shall be not less than the customary and prevailing rate of wages for a day's work in the locality where the work is undertaken. Such a schedule of wages has been established on a minimum hourly basis and is in file in the office of the State Department of Labor. The Contractor shall comply with all provisions of Chapter 37-13 of the RIGL, as may be amended. Particular attention is called to Chapter 37-13-13, relative to posting and providing certified payroll records.

17. Bid Security

Bidders are required to furnish with the Bid Proposal, Bid Security in the amount of five (5) percent of the total Bid Price in the form of a certified check, money order, or in the form attached herein, made payable to the Town of Narragansett. Bid Security of unsuccessful Bidders will be returned within a reasonable time after the award of Bid. Bid Security of the successful Bidder will be retained until the execution of a Contract with the Town, or forfeited to the Town as liquidated damages upon failure to execute a Contract according to the Bid Documents.

## SPECIAL INSTRUCTIONS TO BIDDERS

### ARTICLE 1: PREPARATION OF BID

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in, in ink or typewritten, both in words and figures. All bids must be prepared in conformity with and shall be based on and submitted subject to all requirements of the Specifications and Drawings, together with all Addenda thereto.

### ARTICLE 2: CORRECTIONS

Erasures or other changes in the bid must be explained or noted over the signature of the bidder.

### ARTICLE 3: QUALIFICATIONS OF THE BIDDER

The OWNER may make such investigations as he/she deems necessary to determine the ability of the bidder to perform the Work, and the bidder shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the OWNER that such bidder is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

### ARTICLE 4: OBLIGATIONS OF THE BIDDER

Bidders must satisfy themselves by personal examination at the site of the proposed Work, by review of the Drawings and the Specifications including Addenda, and by such other means as they may prefer, as to the actual conditions, requirements, and limits of the proposed Work, and as to the accuracy of the information and statements herein contained, and the submission of any bid will be accepted by the OWNER as satisfactory proof that the bidder has satisfied himself/herself in these respects. The bidder shall not at any time after the submission of a bid dispute or complain of such statements or information, nor assert that there was any misunderstanding in regard to the nature, or amount of Work to be done. The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder of his/her obligation to furnish all materials and labor necessary to carry out the provisions of the Contract Documents and to complete the contemplated Work for the considerations set forth in his/her bid, if his/her bid is accepted.

### ARTICLE 5: CONDITIONS OF WORK

Insofar as possible, the CONTRACTOR, in carrying out his/her Work, must employ such methods or means as will not cause any interruption of or interference with traffic, with the use of existing facilities and utilities, with the use of municipally or State or privately owned lands, or with the Work being performed by others. The CONTRACTOR must satisfy himself/herself by his/her own investigation and research as to the nature and location of the Work, the general and local conditions, including, but not restricted to, those bearing upon the transportation, disposal, handling and storage of materials, water, electric power, roads, means of access, the construction and making of connections of the Work to existing

facilities and utilities, or other similar conditions at the site, the character of equipment and facilities needed preliminary to and during the prosecution of the Work, requirements of owners and controlling authorities having jurisdiction over the various lands, existing structures, facilities and utilities, and all other conditions affecting the Work to be done and labor and materials needed.

#### ARTICLE 6: INFORMATION SUPPLIED TO BIDDERS

The OWNER shall provide to bidders prior to bidding all information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The Contract Documents contain the provisions required for the construction of the Project. Information obtained from any officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him/her from fulfilling any of the conditions of the Contract.

#### ARTICLE 7: METHOD OF AWARD

If, at the time this Contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the OWNER as available to finance the Contract, the Contract may be awarded on the base bid. If such bid exceeds such amount, the OWNER expressly reserves the right to increase or decrease any class, item, or part of the Work, and this reservation includes the omission of any such item, items, class or part of the Work as may be decided by the OWNER at unit prices submitted by the bidder to bring the Contract within available funds; or the OWNER may reject all bids.

The low bidder shall supply the names and addresses of major material suppliers and subcontractors when requested to do so by the OWNER.

#### ARTICLE 8: EXECUTION OF THE AGREEMENT

A Contract in the form set forth hereinafter will be required to be executed by the successful bidder and the OWNER. The attention of all bidders, therefore, is called to the form of the Agreement and the provisions thereof. The party to whom the Contract is awarded will be required to obtain the performance bond and payment bond within fifteen (15) calendar days from the date when the Notice Of Award is delivered to the bidder. The Notice Of Award shall be accompanied by the necessary Agreement and bond forms. The CONTRACTOR shall furnish a Performance Bond and a Payment Labor and Material Bond, each in the amount of 100 percent of the Contract Price, with a corporate surety approved by the OWNER, as security for faithful performance of Contract.

The OWNER, within fifteen (15) days of receipt of an acceptable performance bond, payment bond and Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the bidder may, by written notice, withdraw his/her signed Agreement. Such notice by withdrawal shall be effective upon receipt of the notice by the OWNER.

#### ARTICLE 9: NOTICE TO PROCEED

The Notice To Proceed shall be issued within ten (10) days of the execution of the Agreement by the OWNER. Should there be reasons why the Notice To Proceed cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the Notice To Proceed has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

#### ARTICLE 10: TIME OF COMPLETION AND LIQUIDATED DAMAGES

The bidder must agree to commence Work on or before the date specified in the written Notice To Proceed of the OWNER, and to fully complete the Project by **May 17, 2013**. The bidder must agree also to pay as liquidated damages, the sum of \$200.00 for each consecutive calendar day thereafter as hereinafter provided in the Contract and General Conditions.

#### ARTICLE 11: POWER OF ATTORNEY

Attorney-in-fact who sign bid bonds or Contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

#### ARTICLE 12: ADDENDA AND INTERPRETATIONS

No interpretation of the meaning of the Drawings, Specifications, or other prebid documents will be made to any bidder orally. Every request for such interpretation should be in writing, addressed to:

Purchasing Agent, Town of Narragansett, 25 Fifth Avenue, Narragansett, Rhode Island, 02882.

In order to be given consideration, such request must be made at least five (5) days prior to the date fixed for the opening of bids. Any and all interpretations and any supplemental instructions will be in the form of written Addenda to the Specifications, which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders, not later than three (3) days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such Addenda or interpretations shall not relieve the bidder from any obligation under his/her bid as submitted. All Addenda so issued shall become a part of the Contract Documents.

#### ARTICLE 13: UNCERTAINTY OF QUANTITIES

The quantities listed in the bid (proposal) are approximate and are given only for use in comparing bids and to indicate approximately the total amount of the Contract; and the OWNER does not expressly or by implication represent that the actual amounts of Work will even approximately correspond therewith, but does call particular attention to the uncertainty of the quantities of the Work involved, which cannot be predicted in advance. The Work under certain items may be materially greater or less than that given in the bid, as may be necessary in the judgment of the OWNER to complete the Work contemplated in the

Contract.

Under the Contract, the OWNER reserves the right to increase or decrease the approximate quantities for, or to omit entirely, any of the items as listed in the bid.

Only such quantities of the respective items of Work actually performed and accepted will be paid for. An increase or decrease in the quantity for any item shall not be regarded as grounds for an increase or decrease in the bid prices.

#### ARTICLE 14: ITEMS NOT LISTED IN THE BID

Appurtenant items of Work shown on the Drawings or specified or required to complete the Work, but not listed separately under the list of items in the bid, shall be included in the cost of payment under the various applicable bid items. It shall be the responsibility of the CONTRACTOR to verify any missing or incomplete items.

#### ARTICLE 15: BALANCED BIDDING

Minus bidding on any item or items of the Specifications is prohibited. Bids should be made on each separate item of Work shown in the bid (proposal) with reasonable relation to the probable cost of doing the Work included in such item, and the right is reserved to reject wholly any bid in case any item or items thereof are obviously unbalanced or appear to the OWNER to be so unbalanced as to affect or to be liable to affect adversely any interests of the OWNER. The attention of the bidder is called to the fact that unbalancing of bids may adversely affect the CONTRACTOR, if certain portions of the Work are increased or decreased as provided in the Contract Documents.

#### ARTICLE 16: PRICES

Bidders shall state the proposed price for the Work by which the bids will be compared. This price is to cover all the expenses incidental to the completion of the Work in full conformity with the Contract, the Specifications, and the Drawings. The price or prices proposed shall be stated both in words and in figures, and any bid not so stated may be rejected.

In the event there is a discrepancy between the unit prices and the extended totals, the unit prices shall govern. In the event that there is a discrepancy between the unit prices written in words and the unit prices written in figures, the unit prices written in words shall govern. No bid will be accepted which does not contain a unit or lump sum price for every item contained in the bid form.

#### ARTICLE 17: NOTICE OF SPECIAL CONDITIONS

Attention is particularly called to those parts of the Contract Documents and Specifications which deal with the following:

- a. Inspection and testing of materials,
- b. Insurance requirements,
- c. Wage rates,
- d. Interpretation of Drawings and Specifications,

- e. Special requirements for Work within the limits of privately-owned property and State Highways, and
- f. The use of explosives and protection.

#### ARTICLE 18: LAWS AND REGULATIONS

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances and rules, and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract the same as though herein written in full. Specifically included is the requirements necessary to comply with the Americans with Disabilities Act.

#### ARTICLE 19: MANUFACTURER'S EXPERIENCE

Wherever it may be written that an equipment manufacturer must have a specified period of experience with his product, equipment which does not meet the specified experience period may, at the option of the OWNER, be considered if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period which will guarantee replacement of that equipment in the event of failure.

#### ARTICLE 20: ACCESS TO SITE

Representatives of the "OWNER" and of the State shall have access to the Work wherever it is in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and inspection.

#### ARTICLE 21: SOIL BORINGS

For Construction Documents that include soil borings, Bidders attention is directed to the fact that no guarantee of any nature is given by the OWNER and/or Engineer as to accuracy of the data obtained from the borings. Reproductions of all available boring log sheets are attached herein. Soil and rock core samples may be made available for inspection. Any bidder who uses this information in making his proposal does so entirely at his/her own responsibility and risk.

#### ARTICLE 22: RHODE ISLAND SALES AND USE TAX

Materials and equipment purchased for installation under this Contract are exempt from the Rhode Island Sales Tax. The exemption from the Sales Tax shall be taken into account by the CONTRACTOR during bidding.

#### ARTICLE 23: JOB CONDITIONS

The bidder is advised that free vehicular and pedestrian access must be maintained to the major streets. The method of construction must be therefore compatible with this requirement of free access.

#### ARTICLE 24: PRECONSTRUCTION CONFERENCE



The CONTRACTOR shall be prepared to attend a preconstruction conference scheduled by the OWNER after award of the Contract, but prior to the actual commencement of Work at the site. The main item of discussion will be the CONTRACTOR's construction schedule, proposed Superintendent, Professional Engineer or Land Surveyor, record drawings, etc.

#### ARTICLE 25: OWNER'S RIGHT TO DELETE PORTION OF CONTRACT

The OWNER reserves the right to delete a portion of this Contract after review of submitted bids, and prior to or after Bid award. The CONTRACTOR shall have no claim for anticipated profits or for loss of profits or for increase in prices should the OWNER exercise this right.

#### ARTICLE 26: LABOR REGULATIONS

The following paragraphs regarding nondiscrimination in employment shall be included and become part of these Specifications:

- a. The Contract for Work under this proposal will obligate the CONTRACTOR and subcontractors not to discriminate in employment practices and conform with Executive Order No. 11246.
- b. Bidders must, if required, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive award of the Contract.
- c. Successful bidders must, if required, submit a list of all subcontractors who will perform Work on the Project, and written signed statements from authorized agents of labor pools with which they will or may deal with for employees on the Work, together with any information to the effect that such labor pools practices or policies are in conformity with Executive Order No. 11246; that they will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employment, and equal treatment of employees seeking employment and performing Work under this Contract; or a certification as to when such agents or labor pools have failed or refused to furnish them, prior to award of the Contract.

#### ARTICLE 27: WAGE RATES

Attention of the bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under the Contract. In conformity with the provisions of Chapter 13 of Title 37, General Laws, Rhode Island, 1956, as amended, the minimum wages for a day's work paid to craftsmen, teamsters and laborers shall be not less than the customary and prevailing rate of wages for a day's work in the locality where the work is undertaken. Such a schedule of wages has been established on a minimum hourly basis and is on file in the office of the State Department of Labor.

#### ARTICLE 28: PERMITS

Narragansett Town Beach South Lot Re-Paving

The Contractor shall obtain all permits and pay all related fees as required by the Town and the State.

BID FORM

Pursuant to and in compliance with the INVITATION TO BID, and the INSTRUCTIONS TO BIDDERS relating thereto, the undersigned bidder hereby states that they have carefully examined the **CONTRACT DOCUMENTS** and the party understands the provisions, requirement, terms and conditions thereof, all of which are acknowledged to be part of the **Bid Proposal**.

Further, they have become familiar with local conditions and the extent of work: has determined the required quality, quantity and sources of supply of all plant, equipment, materials, tools, supplies, labor and all other facilities and things necessary or proper or incidental to the continuous execution and completion of the work as required: and hereby agrees to perform the contract in strict accordance with the **CONTRACT DOCUMENTS**.

**The undersigned bidder hereby agrees that the bid proposal submitted shall remain in effect and binding upon the bidder for a period of 90 calendar days, from the date and time bids are received.**

The undersigned bidder declares that his/her bid proposal in all respects is fair and made without collusion with any other person, firm, corporation making a proposal for this work.

TOTAL BID PRICE (Items 1 through 24 on the Schedule of Prices on pp. 18-21):

\_\_\_\_\_  
(written)

\_\_\_\_\_  
(figures)

BUSINESS NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

SIGNED: \_\_\_\_\_ TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FIN: \_\_\_\_\_

NOTE: BIDDER MUST SUBMIT THREE (3) COPIES OF THIS PROPOSAL (1 ORIGINAL / 2 COPIES)

PROPOSAL ITEMS – SCHEDULE OF PRICES  
TOWN BEACH SOUTH LOT RE-PAVING  
NARRAGANSETT, RI

NOTE: The Unit Price for each item must be written in words and figures  
"LF" = LINEAR FOOT, "LS" = LUMP SUM, "CY" = CUBIC YARD

Item	Quantity (Q)	Description	Unit	Unit Bid Price (P)	Amount
No.				\$0.00	(P x Q) \$0.00
1	450.00	SILT FENCE (RI STD. 9.2.0) AT _____	PER LF		
2	1.00	BALED HAY CATCH BASIN INLET PROTECTION STD 9.8.0 AT _____	PER EACH		
3	1.00	ADJUST WATER GATE VALVE BOXES TO GRADE AT _____	PER EACH		
4	1.00	REPLACE WATER GATE VALVE BOXES AT _____	PER EACH		

Narragansett Town Beach South Lot Re-Paving

Item	Quantity (Q)	Description	Unit	Unit Bid Price (P)	Amount
5	2.00	ADJUST CATCH BASINS / MANHOLES AT _____	PER EACH		
6	9,781.00	ASPHALT PAVEMENT PULVERIZATION / RECLAMATION (*SEE NOTE) AT _____	PER SY		
7	9,781.00	FINE GRADE & COMPACT AT _____	PER SY		
8	500.00	REMOVE & DISPOSE EXCESS PULVERIZED MATERIAL AT _____	PER CY		
9	50.00	REMOVE AND DISPOSE OF UNSUITABLE MATERIAL (ROAD) AT _____	PER CY		
10	50.00	PROCESSED GRAVEL AT _____	PER CY		
11	845.00	1 1/2" BITUMINOUS BINDER COURSE AT _____	PER TON		
12	845.00	1 1/2" BITUMINOUS SURFACE COURSE, TYPE I-1 AT _____	PER TON		

Narragansett Town Beach South Lot Re-Paving

Item	Quantity (Q)	Description	Unit	Unit Bid Price (P)	Amount
13	85.00	TRANSVERSE PAVEMENT CUT AND MATCH STANDARD 47.1.1 AT _____	PER LF		
14	300.00	FULL DEPTH SAW CUT BITUMINOUS SIDEWALKS AND DRIVEWAYS AT _____	PER LF		
15	31.00	REMOVE AND RESET EXISTING CONCRETE CAR STOPS AT _____	PER EACH		
16	69.00	FURNISH AND INSTALL NEW CONCRETE CAR STOPS (RI STD. 7.2.4) AT _____	PER EACH		
17	2.00	7" DIA. STEEL BOLLARD AT _____	PER EACH		
18	9.00	8" X 8" WOOD BOLLARD AT _____	PER EACH		
19	186.00	PRECAST CONCRETE CURB, RI STD. 7.1.0 AT _____	PER LF		
20	50.00	REMOVE AND DISPOSE EXISTING FENCE POST BASE AT _____	PER EACH		

Narragansett Town Beach South Lot Re-Paving

Item	Quantity (Q)	Description	Unit	Unit Bid Price (P)	Amount
21	85.00	FURNISH AND INSTALL NEW FENCE POST BASE AT _____	PER EACH		
22	1.00	PAVEMENT MARKINGS (PARKING STALL STRIPING) AT _____	PER LS		
23	1.00	MAINTAIN AND MOVEMENT OF TRAFFIC PROTECTION AT _____	PER LS		
24	1.00	COMPACTION TESTING (SOIL & PAVEMENT PER SPECS) AT _____	PER LS		
	TOTAL:	(ITEMS 1 THROUGH 24)	TOTAL:		
	(IN WORDS)		(IN FIGURES)		

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, as Principal, and \_\_\_\_\_, as Surety, are hereby held and firmly bound unto the TOWN OF NARRAGANSETT, RHODE ISLAND, as OWNER in the penal sum of (\$ \_\_\_\_\_), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The condition of the above obligation is such that whereas the Principal has submitted to the Town of Narragansett, Rhode Island, a certain BID, attached hereto and hereby made a part hereof to enter into a Contract in writing, for \_\_\_\_\_.

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a Contract in the Form Of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a Performance Bond and a Labor and Material Payment Bond for his/her faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the Agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time with which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.



IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_  
Notary  
and \_\_\_\_\_ Principal                      Seal

By: \_\_\_\_\_ Notary  
and  
Seal

Surety

**IMPORTANT:** Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

CONTRACT AGREEMENT

THIS AGREEMENT, made and executed this \_\_\_\_\_ day of, in the year Two Thousand and Thirteen (2013), by and between the Town of Narragansett, a municipality located within the State of Rhode Island, by its Town Council duly constituted, and without personal liability for the individuals signatory hereto, herein termed the OWNER, party of the first part, and \_\_\_\_\_, doing business as a corporation.

Hereinafter termed the CONTRACTOR, party of the second part;

WITNESSETH: That the parties to this Agreement each in consideration of the Agreements on the part of the other herein contained have agreed, and by these presents do hereby agree, the OWNER for itself, and the CONTRACTOR for himself/herself and his/her heirs, executors, administrators, successors, and assigns, as follows:

That the Contract Documents consisting of this Agreement, together with the Legal and Procedural Documents, General and Supplemental Conditions, Detailed Specification Requirements, Contract Drawings, and any Addenda issued before execution of the Agreement, for the Contract;

That the CONTRACTOR has informed himself/herself fully in regard to all conditions pertaining to the place where the Work is to be done and other circumstances affecting the Work;

That the CONTRACTOR has obtained all the information he/she needs to enable him/her to estimate fully and fairly the costs of the Work herein contemplated;

That the CONTRACTOR shall furnish all plant, labor, materials, suppliers, tools, equipment, and other facilities and things necessary or proper for or incidental to, the party of the first part in accordance with this Contract, commencing Work within the time interval stated in the Bid Proposal, provided he/she shall have been notified by the OWNER so to do, and completing everything required of him/her under this Contract not later than the time stated in the Bid Proposal.

That the OWNER shall pay and the CONTRACTOR shall receive, as full compensation for fulfilling everything required of the CONTRACTOR under this Contract, the unit prices and lump sums recorded in the Bid Form of the Proposal.

That the quantities shown in the Bid Proposal or Bid Form are approximate only, and are solely for the purpose of facilitating the comparison of Proposals; that the OWNER shall not be held responsible if these quantities are not even approximately correct; that for all Work upon which unit prices and lump sums are quoted, the CONTRACTOR'S compensation shall be computed upon the Work actually performed, measured by the units of measurement specified, whether greater or less than the quantities shown in the Bid Proposal or Bid Form; and that the unit prices and lump sums set against the several items cover all incidental services required of the CONTRACTOR under the Contract.

That the CONTRACTOR shall give to the OWNER, as liquidated damages, for each day lost by the CONTRACTOR in the completion of the Work of the Contract after the time herein stipulated, the sum of Two Hundred Dollars (\$200.00) per day;

That the Contract Drawings are prints as listed in the Specifications, and that an official set, in which each print is marked **Proposed Parking Lot Restoration Plan, Narragansett Town Beach South Parking Lot, 39 Boston Neck Road, A.P. B, Lot 6, March 13, 2013**, has been received by each of the parties hereto.

Signed, sealed and delivered in quadruplicate the day and year first above written.

OWNER:

Town of Narragansett, Rhode Island

By: \_\_\_\_\_  
Richard Kerbel, Interim Town Manager

CONTRACTOR\*

By: \_\_\_\_\_

Title: \_\_\_\_\_

This Contract and the applicable Certificates of Insurance are satisfactory to the Town of Narragansett, Rhode Island.

By: \_\_\_\_\_  
Mark A. McSally, Town Solicitor

Town Council Agenda Item / Date

EXPERIENCE

The following experience sheet shall be completed by each Bidder. Any Bid submitted without a fully completed Experience Sheet will be rejected by the OWNER. The Contractor may attach supplemental statement of experience sheets at his/her option.

1. Have you ever failed to complete any work awarded to you?  
If so, state where and why.
  
2. What projects similar to this one has your organization completed within the last five (5) years?

Class of of Work	Contract	When Completed	Name & Address Engineer or
	Amount Owner		
(1)	(2)	(3)	(4)

THE BIDDER SHALL STATE THE NAMES OF ALL THE SUBCONTRACTORS  
THAT HE/SHE PROPOSES TO USE

PROPOSED SUBCONTRACTORS

If none, write

“None” \_\_\_\_\_

\_\_\_\_\_

\*Description of Work

\_\_\_\_\_

Proposed Subcontractor, Name:

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Description of Work \_\_\_\_\_

Proposed Subcontractor, Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Insert description of Work and subcontractors' names as may be required.

This is to certify that all names of the above-mentioned subcontractors are submitted with full knowledge and consent of the respective parties.

The Bidder warrants that none of the proposed subcontractors have any conflict of interest in respect to this Contract.

Bidder

\_\_\_\_\_  
(Fill in Name)

By

\_\_\_\_\_

(Signature and Title)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

\_\_\_\_\_

\_\_\_\_\_(Name of Contractor)

of

\_\_\_\_\_

(Address of Contractor)

as Principal, hereinafter called Principal, and

\_\_\_\_\_

\_\_\_\_\_

(Name of Surety)

\_\_\_\_\_

\_\_\_\_\_

(Address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the Town of Narragansett, Rhode Island, called the Oblige, in the full penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in lawful money of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT WHEREAS said Principal has entered into a certain written Contract with said Oblige, dated the \_\_\_\_\_ day of 2013 or the \_\_\_\_\_

which Contract, together with all Contract Documents now made or which may hereafter be made in extension, modification or alteration thereof, are hereby referred to, incorporated in and made a part of this Bond as though herein fully set forth.

NOW, THEREFORE, if the said Principal shall well and truly keep, perform, and execute all the terms, conditions and stipulations of said Contract according to its provisions on his/her or its part to be kept and performed and shall indemnify and reimburse the Oblige for any loss that it may suffer through failure of the Principal to faithfully observe and perform each and every obligation and duty imposed upon the Principal by the said Contract, at the time and in the manner therein specified, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

PROVIDED, HOWEVER, that any alterations which may be made in the terms of said

Contract or in the Work done or to be done under it, or the giving by the Obligee of any extension of time for the performance of said Contract or any other forbearance on the part of either the Obligee or the Principal one to the other, shall not in any way release the Principal and/or the Surety, or either of them, their representatives, heirs, executors, administrators, successors or assigns from liability hereunder, notice to the Surety or Sureties of any such alteration, extension or forbearance being hereby specifically and absolutely waived.

AND PROVIDED FURTHER THAT NO ACTION, suit, or proceeding shall be had or maintained against the Surety on this instrument unless the same be brought or instituted and process served upon the Surety within three (3) years from the expiration of the guaranty period provided in the Contract, whether the Work be completed by the Principal, or Obligee.

IN WITNESS WHEREOF, the said Principal and Surety have SIGNED AND SEALED this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
(Principal) Secretary

By \_\_\_\_\_ (S)

(SEAL)

\_\_\_\_\_  
Witness as to Principal

ATTEST:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
(Surety) Secretary

(SEAL)

By \_\_\_\_\_

Attorney-in-Fact

\_\_\_\_\_  
Witness as to Surety

Note: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

**IMPORTANT:**

Surety companies executing Bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Rhode Island.

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that

\_\_\_\_\_  
(Name of CONTRACTOR)

of \_\_\_\_\_  
(Address of CONTRACTOR)

as Principal hereinafter called Principal, and

\_\_\_\_\_  
(Name of Surety)

of \_\_\_\_\_  
(Address of Surety)

\_\_\_\_\_, a Corporation, organized and existing under the laws of the State of \_\_\_\_\_, as Surety, hereinafter called Surety, are held and firmly bound unto the Town of Narragansett as Obligee, hereinafter called the Obligee, in the full penal sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) in lawful money of the United States for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT WHEREAS said Principal has entered into a certain written Contract with said Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which written Contract provides for the which Contract, together with all Plans and Specifications now made or which may hereafter be made in extension, modification of alteration thereof, are hereby referred to, incorporated in and made a part of this Bond as though herein fully set forth.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the Work provided for in such Contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs or machinery, equipment and tools, consumed or used in connection with the construction of such Work, and all insurance premiums on said Work and for all labor, performed in such Work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this Bond is executed, pursuant to the provision of the



General Statutes of the State of Rhode Island and the rights and liabilities hereunder shall be determined and limited by said sections to the same extent as if they were copies at length herein.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed there under or the Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the Obligee and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, the said principal and surety have signed and sealed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
(Principal) Secretary

By \_\_\_\_\_ (S)

(SEAL)

\_\_\_\_\_  
Witness as to Principal

ATTEST:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
(Surety) Secretary

(SEAL)

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
Witness as to Surety

NOTE:                   Date of Bond must not be prior to date of Contract.   If  
                          CONTRACTOR is Partnership, all partners should execute bond.

IMPORTANT:           Surety companies executing Bonds must appear on the U.S. Treasury  
Department's most current list (Circular 570 as amended) and be authorized to transact  
business in the State of Rhode Island.

NOTICE OF AWARD

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROJECT DESCRIPTION: Town Beach South Parking Lot Re-Paving**

The OWNER has considered the BID submitted by you dated \_\_\_\_\_ for the above-referenced WORK in response to its Invitation to Bid and the Standard & Special Instructions to Bidders.

You are hereby notified that your BID has been accepted for items in the amounts shown in the Bid Schedule.

You are required by the Standard & Special Instructions to Bidders to execute the Agreement and furnish the required CONTRACTOR'S PERFORMANCE BOND, LABOR AND MATERIAL PAYMENT BOND, and Certificates Of Insurance within fifteen (15) calendar days from the date of this NOTICE to you. The bond forms contained within the Contract Documents must be used. Substitute bond forms will not be accepted.

If you fail to execute said Agreement and to furnish said BONDS and CERTIFICATES OF INSURANCE within fifteen (15) days from the date of this NOTICE, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned, and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ISLAND

TOWN OF NARRAGANSETT, RHODE

OWNER

BY: Jeffry Ceasrine, P.E.

TITLE: Town Engineer

Agenda

Item

# \_\_\_\_\_ Date: \_\_\_\_\_

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_ 2013.  
(Company Name)

Narragansett Town Beach South Lot Re-Paving

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

NOTICE TO PROCEED

TO:

DATE:

PROJECT: Town Beach South Parking Lot Re-Paving

You are hereby notified to commence WORK in accordance with the Bid Proposal dated March 2013, on or before \_\_\_\_\_ and you are to complete the WORK within \_\_\_\_\_ consecutive calendar days thereafter. The date of completion of all WORK is therefore \_\_\_\_\_

ISLAND

TOWN OF NARRAGANSETT, RHODE

OWNER

BY Jeffry Ceasrine, P.E.

TITLE Town Engineer

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is  
hereby acknowledged by (name of Bidder)

this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By

Title

## **GENERAL CONDITIONS**

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## **PART I**

### **ARTICLE 1: CONTRACT AND CONTRACT DOCUMENTS**

The Drawings, Specifications, and addenda enumerated in Article 1 of the Special Conditions, the Invitation To Bid, the Standard Instructions To Bidders, the Special Instructions To Bidders, and the Bid Proposal as accepted by the OWNER, shall be binding upon the parties to this Agreement as if fully set forth therein. Whenever the terms "Contract Documents" are used, it shall mean and include this Contract, Special Conditions, General Conditions, the Standard Instructions To Bidders, the Special Instructions To Bidders, the Bid Proposal, Addenda, the Technical Specifications and the Drawings. The OWNER shall interpret his own requirements. In case of conflict or inconsistency between the provisions of the signed portions of the Contract Documents and those of the Specifications, the provision of the signed portions shall govern.

Everything necessary for the proper completion of the work and successful operation thereof, even though neither definitely shown on the plan or mentioned in the specifications, shall be furnished in a manner corresponding with the rest of the work without extra charge. This is intended to refer to the smaller details necessary for a workmanlike job, and not usually specified or indicated on the drawings.

### **ARTICLE 2: DEFINITIONS**

The following terms as used in this Contract are defined as follows:

- a. **CHANGE ORDER** - A written order to the CONTRACTOR authorizing an addition, deletion, or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
- b. **CONTRACT DOCUMENTS** - The Contract, including Advertisement For Bids, Information For Bidders, Bid, Bid Bond, Agreement, Payment Bond, Performance Bond, General Conditions, Special Conditions, Technical Specifications, Notice Of Award, Notice To Proceed, Change Order, Drawings, and Addenda.
- c. **CONTRACTOR** - A person, firm, or corporation with whom the Contract is made by the OWNER.
- d. **DRAWINGS** - The part of the Contract Documents which show the characteristics and scope of the Work to be performed, and which have been prepared by the Engineer.
- e. **ENGINEER** - Shall mean for the purpose of this Contract the party who shall act as the authorized representative of the OWNER whenever reference is made for such authorization.
- f. **FIELD ORDER** - A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Engineer to the CONTRACTOR during construction.

- g. NOTICE OF AWARD - The written notice of the acceptance of the Bid from the OWNER to the successful Bidder.
- h. NOTICE TO PROCEED - Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the Work and establishing the date of commencement of the Work.
- i. OWNER - Shall mean, for the purpose of this Contract, the party defined in the Agreement section of the Contract Documents.
- j. RESIDENT PROJECT REPRESENTATIVE - The authorized representative of the OWNER who is assigned to the Project Site or any part thereof.
- k. SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the CONTRACTOR, a Subcontractor, Manufacturer, Supplier or Distributor, which illustrates how specific portions of the Work shall be fabricated or installed.
- l. SPECIFICATIONS (TECHNICAL SPECIFICATIONS) - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- m. SUBCONTRACTOR - A person, firm, or corporation supplying labor and materials, or only labor, for Work at the site of the Project; for, and under a separate Contract or Agreement with the CONTRACTOR.
- n. SUBSTANTIAL COMPLETION - That date as certified by the Engineer when the construction of the Project or the specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purpose for which it is intended.
- o. WORK ON THE PROJECT - Work to be performed at the location of the Project, including the transportation of materials and supplies to or from the site by employees of the CONTRACTOR or any Subcontractor.

### ARTICLE 3: QUANTITIES OF ESTIMATE

Whenever the estimated quantities of Work to be done and materials to be furnished under this Contract are shown in any of the documents including the Bid Proposal, they are given for use in comparing bids and the right is especially reserved by the OWNER to increase or diminish them as may be deemed necessary or desirable by the OWNER. Such increases or decreases shall in no way affect this Contract, nor shall any such increases or decreases give cause for claims or liabilities for damages.

### ARTICLE 4: CONFLICTING CONDITIONS

Any provisions of these General Conditions which may be in conflict or inconsistent with any of the articles in the Special Conditions shall be void to the extent of such conflict or

inconsistency.

#### ARTICLE 5: PROVISION OF LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, the Contract shall forthwith be physically amended to make such insertion or correction.

#### ARTICLE 6: NOTICE AND SERVICE THEREOF

The service of any notice, letter, or other communication shall be deemed to have been made by one of the contracting parties on the other party to the Contract when such letter, notice, or other communication has been delivered to the legal office address of the addressee, by a duly authorized representative of the addresser in person, or when such letter, notice, or other communication has been deposited in any regularly maintained mailbox of the United States Post Office, in a properly addressed, postpaid wrapper. The date of such service shall be considered to be the date of such personal delivery or mailing.

The address of the CONTRACTOR noted in his bid and/or the address of his field office on or near the site of Work shall be considered his legal address for the purposes as set forth above.

#### ARTICLE 7: GRATUITIES

- a. If it is found, after notice and hearing, by the OWNER that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the CONTRACTOR, or any agent or representative of the CONTRACTOR, to any official, employee, or agent of the OWNER, or of the State, with a view toward securing a Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this Contract, the OWNER, may by written notice to the CONTRACTOR, terminate the right of the CONTRACTOR to proceed under this Contract or may pursue each other's rights and remedies provided by law or under this Contract: provided, that the existence of the facts upon which the OWNER makes such findings shall be in issue and may be reviewed in proceedings pursuant to the "Remedies" Clause of this Contract.
- b. In the event this Contract is terminated as provided in Paragraph (a) hereof, the OWNER shall be entitled (1) to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the Contract by the CONTRACTOR, and (a) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the OWNER) which shall be not less than three (3) nor more than ten (10) times the cost incurred by the CONTRACTOR in providing any such gratuities to any such officer or employee.

#### ARTICLE 8: COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONTRACTOR for the purpose of securing business. For breach or violation of this warranty, the OWNER shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract Price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### ARTICLE 9: REMEDIES

Except as may be otherwise provided in this Contract, all claims, counterclaims, disputes and other matters in question between the OWNER and the CONTRACTOR arising out of or relating to this agreement or the breach thereof will be decided in a court of competent jurisdiction within the State in which the OWNER is located.

### **PART II**

The rights and obligations of the CONTRACTOR under this Contract shall include, but not be limited to the following:

#### ARTICLE 10: REPRESENTATIONS OF THE CONTRACTOR

The CONTRACTOR represents and warrants:

- a. That he is financially solvent and that he is experienced and competent to perform the type of Work required under this Contract and that he is able to furnish the plant materials, supplies, or equipment that may be necessary to perform the Work as specified.
- b. That he is familiar with all Federal, State and municipal laws, ordinances, orders, and regulations which may in any way affect the Project Work, or the employment of persons thereon, including but not limited to any special acts relating to the Work or to the Project of which he is a part.
- c. That such temporary and permanent Work required by the Contract Documents to be done by him will be satisfactorily constructed and can be used for the purpose for which it was intended and that such construction will not injure any person or damage property.
- d. That he has carefully examined the Drawings, Specifications, and Addenda, if any, and the site of the Work and that from his own investigations, he has satisfied himself as to the nature and location of the Work, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions, and all other items that may affect the Work.
- e. That he is aware of the hazards involved in the Work and the danger to life and

property both evident and inherent and that he will conduct the Work in a careful and safe manner without injury to persons or property.

#### ARTICLE 11: CONTRACTOR'S OBLIGATIONS

The CONTRACTOR shall perform all Work in a good workmanlike manner, and in accordance with the plans and Specifications and any supplements thereto, and according to any directions or orders given by the OWNER. He shall furnish all supplies, materials, facilities, equipment, and means necessary or proper to perform and complete the Work required by this Contract. Unless otherwise specified, all materials incorporated in the permanent work shall be new, and both workmanship and materials shall be of good quality. The CONTRACTOR, if required, shall furnish satisfactory evidence as to the kind and quality of materials. He shall furnish, erect, maintain, and remove any construction plant or temporary Work as may be required. He alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation. The CONTRACTOR shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and Specifications and shall do, carry on, and complete the entire Work to the satisfaction of the OWNER.

The CONTRACTOR shall be solely responsible for all the Work and shall provide all precautionary measures necessary for preventing injury to persons or damage to property. All injury or damage of whatever nature resulting from the Work or resulting to persons, property, or the Work during its progress, from whatever cause, shall be the responsibility of the CONTRACTOR.

The CONTRACTOR shall hold the OWNER and Engineer, or their duly authorized agents, harmless and defend and indemnify them against damages or claims for damages due to injuries to persons or property arising out of the execution of the Project Work, and for damages to materials furnished for the Work, for infringement of inventions, patents, and patent rights used in doing the Work, and for any act, omission, or instance of neglect by the CONTRACTOR, his agents, employees, or subcontractors.

The CONTRACTOR shall bear all losses resulting to him, including but not limited to losses sustained on account of the character, quality, or quantity of any part of the Work, or all parts of the Work, or because the nature of the conditions in or on the Project site are different from what was estimated or indicated, or on account of the weather, elements, or other causes.

It shall be the General CONTRACTOR's responsibility to coordinate the work of any subcontractor he may engage and any manufacturer's representative used in installing equipment and to furnish any incidental equipment, connections, materials, and labor not furnished by such manufacturers, suppliers, subcontractors, etc., and perform all cutting and patching to make a completely finished, operable unit, structure or piece of equipment for its intended use and satisfactory to the OWNER.

The CONTRACTOR will cooperate in every way possible with the OWNER and with other contractors. Where new work adjoins old and making connections to existing systems, the CONTRACTOR shall consult with the OWNER and/or other contractors and shall perform

such work in as short time as possible at times that will least interfere with normal operation.

ARTICLE 12: TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- a. It is hereby understood and mutually agreed by and between the CONTRACTOR and the OWNER that the date of beginning and the time of completion of the Work as specified in this Contract are ESSENTIAL CONDITIONS of this Contract, and it is further mutually understood and agreed that the Work embraced in this Contract shall be commenced on a date to be specified in the Notice To Proceed.
- b. The CONTRACTOR agrees that said Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified, and further, that time of completion as agreed upon is reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- c. If the said CONTRACTOR shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the OWNER, then the CONTRACTOR does hereby agree, as a partial consideration for the awarding of this Contract, to pay to the OWNER the amount specified in the Contract, not as a penalty, but as liquidated damages for such Breach of Contract as hereinafter set forth for each and every calendar day that the CONTRACTOR shall be in default, after the time stipulated in the Contract for completing the Work.
- d. The said amount is fixed and agreed upon by and between the OWNER and the CONTRACTOR, and said amount is agreed to be the amount of damages the OWNER would sustain in such an event as the above-mentioned, and said amount shall be retained from time to time by the OWNER for current periodical payments.
- e. It is further agreed that time is of the essence in each and every portion of the Contract and Specifications; where in a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be by the CONTRACTOR and shall not be charged when the delay in completion of the Work is due to:
  1. Any preference, priority, or allocation order duly issued by the government, subsequent to the date of the Contract.
  2. Unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to acts of God, or of the public enemy, acts of the OWNER, acts of another contractor, fires, floods, epidemics, strikes, and unusually severe weather.
  3. Any delays of subcontractors or suppliers approved by the OWNER.

Provided further that the CONTRACTOR shall within ten (10) days from the beginning of the delay, unless the OWNER shall grant a further period of time prior to the date of final



settlement of the Contract, notify the OWNER in writing of the causes of the delay. The OWNER shall ascertain the facts and extent of the delay, and notify the CONTRACTOR within a reasonable time of its decision in the matter.

**ARTICLE 13: TERMINATION FOR DEFAULT; DAMAGES FOR DELAY; TIME  
EXTENSIONS**

- a. If the CONTRACTOR refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Contract, or any extension thereof, or fails to complete said Work within such time, the OWNER may, by written notice to the CONTRACTOR, terminate his right to proceed with the Work or such part of the Work as to which there has been a delay. In such event, the OWNER may take over the Work and prosecute the same to completion, by Contract otherwise, and may take possession of and utilize in completing the Work such materials, appliances, and plant as may be on the site of the Work and necessary therefore. Whether or not the CONTRACTOR'S right to proceed with the Work is terminated, he and his sureties shall be liable for any damage to the OWNER resulting from his refusal or failure to complete the Work within the specified time.
- b. If fixed and agreed liquidated damages are provided in the Contract and if the OWNER so terminates the CONTRACTOR'S right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the Work together with any increased costs occasioned the OWNER in completing the Work.
- c. If fixed and agreed liquidated damages are provided in the Contract and if the OWNER does not so terminate the CONTRACTOR'S right to proceed, the resulting damage will consist of such liquidated damages until the Work is completed or accepted.
- d. The CONTRACTOR'S right to proceed shall not be so terminated nor the CONTRACTOR charged with resulting damage if:
  1. The delay in the completion of the Work arises from causes other than normal weather beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, acts of the public enemy, acts of the OWNER in either its sovereign or contractual capacity, acts of another contractor in the performance of a Contract with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from causes other than normal weather beyond the control and without the fault of negligence of both the CONTRACTOR and such subcontractors or suppliers; and
  2. The CONTRACTOR, within ten (10) days from the beginning of any such delay (unless the OWNER grants a further period of time before the date of final payment under the Contract), notifies the OWNER in writing of the

causes of delay. The OWNER shall ascertain the facts and the extent of the delay and extend the time for completing the Work when, in his judgment, the findings of fact justify such an extension and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Remedies" clause of this Contract.

- e. If, after notice of termination of the CONTRACTOR'S right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the OWNER, be the same as if the notice of termination has been issued pursuant to such clause. If, in the foregoing circumstances, this Contract does not contain a clause providing for termination for convenience of the OWNER, the Contract shall be equitably adjusted accordingly; failure to agree to any such adjustment shall be subject to the "Remedies" clause of this Contract.
- f. The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.
- g. As used in paragraph (d) (1) of this clause, the term "Subcontractors or suppliers", means subcontractors or suppliers at any tier.

#### ARTICLE 14: CONTRACT SECURITY

The CONTRACTOR must furnish a Performance Bond and a Labor and Material Payment Bond, in the specific formats as attached herein, both for the full value of the bid price within fifteen (15) calendar days after the award date, in order to execute a Contract. This surety on such bonds shall be a duly authorized surety company satisfactory to the OWNER, and the cost of the same shall be paid by the CONTRACTOR. Prior to the starting of any Work, the bonds must be approved by the OWNER.

#### ARTICLE 15: ADDITIONAL OR SUBSTITUTE BOND

If at any time the OWNER, for justifiable cause, shall become dissatisfied with any Surety or Sureties holding payment bonds, the CONTRACTOR shall, within five (5) days after notice from the OWNER to do so, substitute an acceptable bond or bonds in such form and signed by such other Surety as may be satisfactory to the OWNER. The premiums of such bonds shall be paid by the CONTRACTOR. No further payments will be deemed due, nor will be made until the new Surety or Sureties shall have furnished such an acceptable bond to the OWNER.

#### ARTICLE 16: INDEMNITY

The CONTRACTOR shall at all times indemnify and save harmless the OWNER and the Engineer, their servants and agents, from any and all claims and from any suits, litigations, damages, losses or the like arising out of injuries sustained or alleged to have been sustained by any persons or property in connection with the Contract Work, caused in whole or in part by acts or omissions of the CONTRACTOR, his subcontractors, materialmen, or anyone directly or indirectly connected with the Contract Work.

#### ARTICLE 17: SUPERINTENDENCE BY THE CONTRACTOR

The CONTRACTOR shall give the Work the constant attention necessary to facilitate the progress thereof and shall cooperate with the OWNER in every possible way.

At the site of the Work, the CONTRACTOR shall, at all times, employ a Construction Superintendent who shall have full authority to act for the CONTRACTOR. It is understood that the employment of such representative shall be acceptable to the OWNER and shall be such a person as can be continued in the capacity for the duration of the Contract, unless he ceases to be on the CONTRACTOR'S payroll.

The CONTRACTOR shall at all times enforce strict discipline and good order among his employees and shall seek to avoid employing on the work any unfit person or anyone not skilled in the work assigned to him. The CONTRACTOR shall employ experienced foremen, craftsmen, and other workmen competent in the Work in which they are to be engaged.

#### ARTICLE 18: CONTRACTOR TO LAY OUT HIS OWN WORK

The OWNER will establish such general reference points as in his judgment will enable the CONTRACTOR to proceed with the Work. The CONTRACTOR, at his own expense, shall provide all materials and equipment and such qualified helpers as may be required for setting the general reference points, lines, and grades, and shall protect and preserve all stakes, benches, and other markers used to identify the reference points. The CONTRACTOR shall lay out all the Contract Work from the above and shall be responsible for the accuracy of all lines, grades and measurements.

If the CONTRACTOR, in the course of the work, finds any discrepancy between the plans and the physical conditions of the locality, or any errors or omissions in plans or in the layout as given by survey points and instructions, he shall immediately inform the Engineer, in writing, and the Engineer shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the CONTRACTOR's risk.

#### ARTICLE 19: PERMITS AND REGULATIONS

The CONTRACTOR shall comply with all laws, regulations, ordinances, orders and rules relating to the performance of the Work, the protection of the adjacent property, and the maintenance of passageways, guard fences, and other protective facilities.

It is the responsibility of the CONTRACTOR to secure, at his expense, all necessary permits and licenses for the required work.

#### ARTICLE 20: CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Within five (5) days after the date of "Notice To Proceed", the CONTRACTOR shall deliver to the OWNER an estimated construction progress schedule in a form satisfactory to the OWNER, showing the proposed dates of commencement and completion of each of the

various subdivisions of Work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the CONTRACTOR in accordance with the progress schedule. The CONTRACTOR shall also furnish: 1) a detailed estimate, giving a complete breakdown of the Contract price; and 2) periodic itemized estimates of the Work done for the purpose of making partial payments thereon. This estimate shall be in the form of a monthly (or other agreed upon period) cash flow projection. It is understood that this report will not be binding on either the CONTRACTOR or the OWNER relative to actual requisition amounts submitted and approved, but will be used for planning purposes only.

The CONTRACTOR shall perform the Work of this Contract to conform with the schedule as approved by the OWNER, except that the OWNER reserves the right to amend and alter the construction schedule at any time, if in a manner which is deemed to be in the best interest of the OWNER to do so. The CONTRACTOR shall arrange his Work to conform with this schedule as it may be revised from time to time by the OWNER, at no additional expense to the OWNER. The CONTRACTOR shall notify the OWNER immediately of any circumstances which may affect the performance of the Work in accordance with the current construction schedule.

#### ARTICLE 21: SEQUENCE OF THE WORK

The CONTRACTOR shall be required to prosecute his Work in accordance with a schedule prepared by him in advance in accordance with additional requirements specified herein and approved by the OWNER. This scheduling shall state the methods and shall forecast the times of doing each portion of the Work. Before beginning any portion of the Work, the CONTRACTOR shall give the OWNER advance notice and ample time for making necessary preparations.

#### ARTICLE 22: AUDIT; ACCESS TO RECORDS

The CONTRACTOR shall maintain books, records, documents and other evidence directly pertinent to performance of Work under this Contract in accordance with generally accepted accounting principles and practices. The CONTRACTOR shall also maintain the financial information and data used by the CONTRACTOR in the preparation or support of the cost submission or for any negotiated Contract or Change Order and a copy of the cost summary submitted to the OWNER. The CONTRACTOR will provide proper facilities for such access and inspection.

Audits conducted pursuant to this Provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

The CONTRACTOR agrees to the disclosure of all information and reports resulting from the access to records pursuant to paragraphs above, to any of the agencies referred to above, provided that the CONTRACTOR is afforded the opportunity for an audit conference, and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report that the final audit report will include written comments of reasonable length, if any, of the CONTRACTOR.

Records under paragraphs above, shall be maintained and made available during performance on Work under this Contract and until three (3) years from the date of final payment for the Project. In addition, those records which related to any "Dispute", appeal agreement, or litigation, or the settlement of claims arising out of such performance, or costs of items to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date of resolution of such appeal, litigation, claim or exception.

#### ARTICLE 23: REPORTS, RECORDS, AND DATA

The CONTRACTOR and each of his subcontractors, shall submit to the OWNER such schedules of quantities and costs, progress schedules, certified payrolls, reports, estimates, records, and other data as the OWNER may request concerning the Work performed or to be performed under this Contract.

#### ARTICLE 24: DIFFERING SITE CONDITIONS

- a. The CONTRACTOR shall promptly and before such conditions are disturbed, notify the OWNER in writing of: (1) subsurface of latent physical conditions at the site differing materially from those indicated in this Contract, or (2) unknown physical conditions at the site, of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in Work of the character provided for in this Contract. The OWNER shall promptly investigate the conditions and if he finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.
- b. No claim of the CONTRACTOR under this clause shall be allowed unless the CONTRACTOR has given the notice required in (a) above; provided, however, the time prescribed therefore may be extended by the OWNER.
- c. No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

#### ARTICLE 25: GENERAL GUARANTEE

Neither the final certificate of payment nor any provision in the Contract Documents nor any partial or entire occupancy of the premises by the OWNER shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve the CONTRACTOR of liability in respect to any express warranties or responsibility for faulty workmanship or materials. The CONTRACTOR shall remedy any defects in the Work and pay for any damage to other Work resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the Work, unless a longer period is specified by the OWNER and/or by virtue of any specific product guarantees and/or warranties. The

OWNER will give final notice of observed defects with reasonable promptness.

The CONTRACTOR shall furnish a bond or bonds to guarantee satisfactory operation of any item of equipment for one year or for any other time period consistent with any specific product guarantees and/or warranties as referenced within the Technical Specifications, from date of final acceptance, if required by the Engineer.

#### ARTICLE 26: COMPLETENESS OF THE WORK

In addition to the specified or described portions of the Work, all other Work and all other materials, equipment, and labor of whatever description, necessary or required to complete the Work, or for carrying out the full intent of the drawings and Specifications, such Work, labor, materials, and equipment shall be provided by the CONTRACTOR, and payment therefore shall be considered as having been included in the price stipulated for the appropriate item of Work listed in the bid.

#### ARTICLE 27: CARE OF THE WORK

The CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of the Work and shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final acceptance by the OWNER, whether or not the same has been covered by partial payments made by the OWNER.

#### ARTICLE 28: PROTECTION OF CONSTRUCTION FEATURES

The CONTRACTOR shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property and such incidentals, and to avoid damage thereto. The CONTRACTOR shall completely repair any damage at no additional expense to the OWNER.

#### ARTICLE 29: SAFETY AND HEALTH REGULATIONS

These Contract Documents, and the joint and several phases of construction hereby contemplated, are to be governed, at all times, by the applicable provisions of the Federal law(s), including but not limited to the following:

1. Williams-Steiger Occupational Safety and Health Act, 1970, Public Law 92-596;
2. Part 1910 of the Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations;
3. This Project is subject to all of the Safety and Health Regulations (CFR 29, Part 1926 and all subsequent amendments) as promulgated by the U.S. Department of Labor on June 24, 1974. CONTRACTORS are urged to become familiar with the requirements of these regulations.

In the event of any inconsistencies between the above laws and regulations and the provisions of these Contract Documents, the laws and regulations shall prevail.

ARTICLE 30: PROTECTION OF WORK AND PROPERTY - EMERGENCY

- a. The CONTRACTOR shall provide and maintain all necessary watchmen, barricades, lights and warning signs and take all necessary precautions for the protection of the public.
- b. The CONTRACTOR shall at all times safely guard the OWNER'S property as well as adjacent public and private property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own Work, materials incorporated into the Work or stockpiled at the site, and that of adjacent property, from damage. The CONTRACTOR shall replace or make good any such damage, loss or injury.
- c. In case of an emergency which threatens loss or injury of property, and/or safety of life, the CONTRACTOR will be allowed to act, without previous instructions from the OWNER, in a diligent manner. He shall notify the OWNER immediately thereafter. Any claim for compensation by the CONTRACTOR due to such extra Work shall be promptly submitted to the OWNER for review.
- d. Where the CONTRACTOR has not taken action but has notified the OWNER of an emergency threatening injury to persons or damage to the Work or to any adjoining property, he shall act as instructed or authorized by the OWNER.
- e. The amount of reimbursement claimed by the CONTRACTOR on account of any emergency action shall be determined in the manner provided elsewhere in the Contract Documents.
- f. The CONTRACTOR shall remove all snow and ice as may be required for the proper protection and prosecution of the work.
- g. Bracing, shoring, sheathing, caissons and/or any other underground facilities shall be provided as required for safety and proper execution of the work, and shall be removed when no longer necessary.

ARTICLE 31: FIRE PREVENTION AND PROTECTION

All State and municipal rules and regulations with respect to fire prevention, fire-resistant construction, and fire protection shall be strictly adhered to on all Work and facilities necessary therefor shall be provided and maintained by the CONTRACTOR in an approved manner.

All fire protection equipment such as water tanks, hoses, pumps, extinguishers and other materials and apparatus, shall be provided for the protection of the Contract Work, temporary Work, and adjacent property. Trained personnel experienced in the operation of all fire protection equipment and apparatus shall be available on the site whenever Work is in

progress, and at such other times as may be necessary for the safety of the public and the Work.

#### ARTICLE 32: PROTECTION OF LIVES AND HEALTH

- a. In order to protect the lives and health of his employees under this Contract, the CONTRACTOR shall meet all pertinent provisions of the "Manual of Accident Prevention in Construction," issued by the Associated General Contractors of America, Inc., and shall maintain an accurate record of all cases of death, occupational diseases, and injuries requiring medical attention or causing loss of time of employment on the Contract Work.
- b. The CONTRACTOR alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance or operation.

#### ARTICLE 33: PROTECTION AGAINST HIGH WATER AND STORM

The CONTRACTOR shall take all precautions to prevent damage to Work or equipment by high water or by storms. The OWNER may prohibit the carrying out of Work at any time when in his judgment high waters or storm conditions are unfavorable or unsuitable, or at any time regardless of the weather when proper precautions are not being taken to safeguard previously constructed Work or Work in progress.

In case of damage caused by the failure of the CONTRACTOR to take adequate precautions, the CONTRACTOR shall repair or replace equipment damaged and shall make such repairs or rebuild such parts of the damaged Work as the OWNER may require, at no additional cost to the OWNER.

#### ARTICLE 34: FIRST AID TO INJURED

The CONTRACTOR shall keep in his office, ready for immediate use, all articles necessary for giving first aid to injured employees. He shall also provide arrangements for the immediate removal and hospital treatment of any employees injured on the Work site, who require same.

#### ARTICLE 35: HURRICANE PROTECTION

Should hurricane warnings be issued, the CONTRACTOR shall take every precaution to minimize danger to persons, to the Work, and to adjacent property. These precautions shall include closing all openings, removing all loose materials, tools and equipment from exposed locations, and removing all scaffolding and other temporary Work.

#### ARTICLE 36: USE OF PREMISES AND REMOVAL OF DEBRIS

The CONTRACTOR undertakes, at his own expense:

- a. To take every precaution against injuries to persons or damage to property.



- b. To store his apparatus, materials, equipment and supplies in such orderly fashion at the site of the Work, as will not unduly interfere with the progress of his Work or any others.
- c. To place upon the Work or any part thereof, only such loads as are consistent with the safety of that portion of the Work.
- d. To clean frequently all refuse, scrap, and debris caused by his operations, so that the Work site is maintained in a neat, workmanlike appearance.
- e. To effect all cutting, fitting, or patching of his Work required to make the same conform to the drawings and Specifications, and except with the consent of the OWNER, not to cut or otherwise alter the Work of any other contractor.
- f. Before final payment, to remove all surplus materials, false Work, temporary structures, including foundations thereof, plants of any description, and debris of any nature resulting from his operations, so that the site is left in a neat, orderly, and workmanlike condition.

#### ARTICLE 37: CORRECTION OF WORK

All Work, materials, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the OWNER, who shall be the final judge of the quality and suitability of the Work performed under this Contract. Should any of the Work performed fail to meet with his approval, it shall be forthwith reconstructed, made good, replaced, and/or corrected as the case may be, by the CONTRACTOR, at his own expense. Rejected material shall be immediately removed from the site. If, in the opinion of the OWNER, it is undesirable to replace, reconstruct, or correct any of the Work not performed in accordance with the Contract Documents, the compensation to be paid to the CONTRACTOR shall be reduced by such amounts as in the judgment of the OWNER shall be equitable.

#### ARTICLE 38: FAILURE TO REPAIR

Any emergency rising from the interruption of electric, gas, water, storm drainage, transportation routes (roads), or sewer service due to the activities of the CONTRACTOR shall be repaired by the CONTRACTOR as quickly as is possible.

If and when, in the opinion of the OWNER, the CONTRACTOR is not initiating repair Work as expeditiously as possible upon notification to do so, the OWNER, may, at his own option, make the necessary repairs using his own forces or those of others. The cost of such repairs shall be subtracted from the payments due to the CONTRACTOR.

#### ARTICLE 39: WEATHER CONDITIONS

In the event of temporary suspension of the Work, or during inclement weather, or whenever the OWNER shall direct, the Contractor shall, and shall cause his subcontractors to, protect

carefully his and their Work and materials against damage or injury from the weather. If, in the opinion of the OWNER, any Work or materials are damaged or injured by reason of failure to protect them on the part of the CONTRACTOR, or any of his subcontractors, or otherwise damaged or injured by the CONTRACTOR'S negligence, or are found to be defective, such materials or Work shall be removed and replaced at the expense of the CONTRACTOR. The OWNER may determine when conditions are unfavorable for Work and may order the Work, or any portion thereof, suspended whenever, in his opinion, the conditions are not such as will insure first-class Work.

#### ARTICLE 40: BUS LINE INTERFERENCE

Whenever it may be necessary to interfere with any bus lines, notice shall be given to the corporation owning the same, and reasonable time will be given to said corporation to arrange the schedule for operation of the bus line, as it may be necessary.

#### ARTICLE 41: AFTER HOURS WORK

Night work, or Work on Saturdays, Sundays, or legal holidays requiring the presence of an engineer or inspector, will not be permitted except in case of emergency, and only upon the approval of the OWNER. Should it be necessary for the OWNER to operate an organization for continuous night work or for emergency night work, the lighting, safety and other facilities which are deemed necessary shall be provided by the CONTRACTOR. Compensation for this Work shall be considered as having been included in the prices stipulated for the appropriate items of Work as listed in the bid, and no extra compensation will be paid by the OWNER.

#### ARTICLE 42: LIGHTS, BARRIERS, WATCHMEN, AND INDEMNITY

The CONTRACTOR shall erect and maintain such barriers, lighting, warning lights, danger warning signals, and signs that will prevent accidents during the construction Work and protect the Work and insure the safety of personnel and the public at all times and places; the CONTRACTOR shall indemnify and protect the OWNER and Engineer in every respect from injury or damage whatsoever caused by any act of neglect by the CONTRACTOR or his subcontractors, or their servants or agents.

In addition to the above, when and as necessary, or when required by the OWNER, the CONTRACTOR shall post signs and employ watchmen or flagmen, for the direction of traffic at the site and for excluding at all times unauthorized persons from the Work site, for which the CONTRACTOR shall be paid no additional compensation.

The CONTRACTOR shall be responsible for excluding at all times from the land within the easement areas, all persons not directly connected with the Work.

All Work occurring on State of Rhode Island highways shall be clearly identified, protected, and the public's safety ensured by erection of signs, barriers, and all other provisions as outlined in the Manual on Uniform Traffic Control Devices for Streets and Highways; issued by the U.S. Department of Transportation, Federal Highway Administration, 1978; Part VI, "Traffic Controls for Streets and Highway Construction and Maintenance Operations", as amended.

#### ARTICLE 43: LOADING

No part of the structures involved in this Contract shall be loaded during construction with a load greater than it is calculated to carry with safety. Should any accidents or damage occur through any violation of this requirement, the CONTRACTOR will be held responsible under his Contract and bond.

#### ARTICLE 44: DISPOSAL OF MATERIALS

The materials used in the construction of the Work, shall be deposited in such manner so they will not endanger persons or the Work, and so that free access may be had at any time to all hydrants, valves, manholes, etc. in the vicinity of the Work. The materials shall be kept trimmed up so that as little inconvenience as possible to the public or adjoining tenants is caused.

#### ARTICLE 45: FINISHING AND CLEANING UP

In completing his operations, the CONTRACTOR shall immediately remove all surplus material, tools, and other property belonging to him, leaving the entire street or surroundings free and clean and in good order, at no additional expense to the OWNER. The CONTRACTOR shall exercise special care in keeping the rights-of-way and private lands upon which Work is performed free and clean of all debris, and shall remove all tools and other property when they are not in use.

In case the CONTRACTOR fails or neglects to promptly remove all surplus materials, tools, and incidentals after backfilling, leaving the street or surrounding area clean and free of debris, and do the required repaving when ordered, the OWNER may, after 24 hours' notice, cause the Work to be done and the cost thereof deducted from any payment due to the CONTRACTOR.

#### ARTICLE 46: SPIRITUOUS LIQUORS

The CONTRACTOR shall neither permit or suffer the introduction of spirituous liquors upon the Work embraced in this Contract, nor the use of the same.

#### ARTICLE 47: DUST CONTROL

The CONTRACTOR shall exercise every precaution and means to prevent and control dust arising out of all construction operations from becoming a nuisance to abutting property OWNERS or surrounding neighborhoods. Pavements adjoining the pipe trench shall be kept broomed off and washed clean of excess materials wherever and whenever directed. Repeated daily dust control treatment shall be provided to satisfactorily prevent the spread of dust until permanent pavement repairs are made and until earth stockpiles have been removed, and all construction operations that might cause dust have been completed. No extra payment will be made for these dust control measures, compensation shall be considered to be included in the prices stipulated for the appropriate items as listed in the bid.

If so directed by the OWNER, the CONTRACTOR shall furnish and apply calcium chloride for supplemental control of dust.

Calcium chloride shall conform to the requirements of AASHTO M.144 (ASTM D-98) except that the pellet form and the flake form shall be equally acceptable.

Calcium chloride shall be applied only at the locations, at such times and in the amount as may be directed by the OWNER. It shall be spread in such manner and by such devices that uniform distribution is attained over the entire area on which it is ordered placed.

There will be no separate payment for this Work. The cost of the Work shall be included in the price bid for the various other items of Work.

### **PART III**

The rights and obligations of the OWNER under this Contract shall include, but not be limited to the following:

#### **ARTICLE 48: THE OWNER'S AUTHORITY**

The OWNER shall give all orders and directions contemplated under this Contract and Specifications relative to the execution of the Work. The OWNER shall determine the amount, quality, acceptability, and fitness of the several kinds of Work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said Work and the construction thereof. The OWNER'S estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said Contract or Specifications, the determination or decision of the OWNER shall be a condition precedent to the right of the CONTRACTOR to receive any money or payment for Work under this Contract affected by such questions.

The OWNER shall decide the meaning and intent of any portion of the Specifications and of any plans or drawings where the same may be found to be obscure or be in dispute. Any differences or conflicts in regard to their Work which may arise between the CONTRACTOR and other contractors performing Work for the OWNER, shall be adjusted and determined by the OWNER.

#### **ARTICLE 49: ALL WORK SUBJECT TO CONTROL BY THE OWNER**

- a. In the performance of the Work, the CONTRACTOR shall abide by all orders, directions, and requirements of the OWNER, and shall perform all Work to the satisfaction of the OWNER, and at such times and places, by such methods, and in such manner and sequence as he may require. The OWNER shall determine the amounts, quality, acceptability, and fitness of all parts of the Work. The OWNER shall interpret the drawings, Specifications, contract documents, all other documents, and the extra Work orders. The OWNER shall also decide all other questions in connection with the Work. The CONTRACTOR shall employ no plant, equipment, materials, methods or men to which the OWNER objects and shall remove no plant,

materials, or equipment, or other facilities from the Work site without the OWNER'S permission. Upon request, the OWNER will confirm in writing any oral order, direction, requirement, or determination.

- b. Inspectors shall be authorized to inspect all Work done and materials furnished. Such inspection may extend to all parts of the Work and to the preparation or manufacture of the materials to be used. The presence or absence of an inspector shall not relieve the CONTRACTOR from any requirements of the Contract. In case of any dispute arising between the CONTRACTOR and the inspector as to materials furnished or the manner in which the Work is being executed, the inspector shall have the authority to reject material, and suspend Work until the question has been decided by the OWNER. The inspector shall not be authorized to revoke, alter, enlarge, relax, or release any requirement of these Specifications, nor to approve or accept any portion of the Work, nor to issue instructions contrary to the drawings and Specifications. The inspector shall in no case act as foreman or perform other duties for the CONTRACTOR, or interfere with the management of the Work by the latter. Any advice which the inspector may give the CONTRACTOR shall in no way be construed as binding the OWNER or the Engineers in any way, nor releasing the CONTRACTOR from the fulfillment of the terms of the Contract.

#### ARTICLE 50: THE OWNER'S CONTROL NOT LIMITED

The enumeration in this Contract of particular instances in which the opinion, judgment, discretion, or determination of the OWNER shall control or in which Work shall be performed to his satisfaction or subject to his approval or inspection, shall not imply that only matters similar to those enumerated shall be so governed and performed, but without exception all the Work shall be so governed and performed.

#### ARTICLE 51: RIGHT OF THE OWNER TO TERMINATE THE CONTRACT

In the event that any of the provisions of this Contract are violated by the CONTRACTOR, or any of his subcontractors, the OWNER may serve written notice upon the CONTRACTOR and the Surety of his intention to terminate the Contract, such notice to contain the reasons for such intention to terminate the Contract. If within ten (10) days such violation or delay shall not cease, and satisfactory arrangement or correction made, the Contract shall, at the expiration of the ten (10) days, cease and immediately serve notice thereof upon the Surety and the CONTRACTOR, and the Surety shall have the power to take over and perform the Contract; provided, however, that if the Surety does not commence performing thereof within ten (10) days from the date of mailing to such Surety a Notice Of Termination, the OWNER may take over the Work and prosecute the same to completion by Contract or force account at the expense of the CONTRACTOR, and the CONTRACTOR and his Surety shall be liable to the OWNER for any excess cost occasioned the OWNER thereby.

If the CONTRACTOR should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extensions of time are provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payments to Subcontractors or for

material or labor, or persistently disregard laws, or ordinances or the instructions of the Engineer, or otherwise be guilty of a substantial violation of any provision of the Contract, then the OWNER, upon the written notice of the Engineer that sufficient cause exists to justify such action may, without prejudice to any other right to remedy and after giving the CONTRACTOR ten (10) days written notice, terminate the employment of the CONTRACTOR and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient.

In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER. The expense incurred by the OWNER herein provided, and the damage incurred through the CONTRACTOR's default, shall be determined by the Engineer.

Where the Contract has been terminated by the OWNER, said termination shall not affect or terminate any of the rights of the OWNER as against the CONTRACTOR of his surety then existing or which may thereafter accrue because of such default.

In the case of termination of this Contract before completion, for any cause whatever, the CONTRACTOR, if notified to do so by the OWNER, shall promptly remove any part or all of his equipment or supplies from the property of the OWNER, failing which the OWNER shall have the right to remove such equipment and supplies at the expense of the CONTRACTOR.

#### ARTICLE 52: TERMINATION FOR CONVENIENCE

- a. The performance of Work under this Contract may be terminated by the OWNER in accordance with this clause in whole, or from time to time in part, whenever the OWNER shall determine that such termination shall be effected by delivery to the CONTRACTOR of a Notice Of Termination specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination becomes effective.
- b. After receipt of a Notice Of Termination, and except as otherwise directed by the OWNER, the CONTRACTOR shall:
  1. Stop Work under the Contract on the date and to the extent specified in the Notice Of Termination;
  2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
  3. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice Of Termination;

4. Assign to the OWNER in the manner, at the times, and to the extent directed by the OWNER, all of the rights, title and interest of the CONTRACTOR under the orders and subcontracts so terminated. In which case, the OWNER shall have the right, in its discretion, to settle, or pay any or all claims arising out of the termination of such orders and subcontracts;
  5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the OWNER to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;
  6. Transfer title to the OWNER, and deliver in the manner, at the times, and to the extent, if any, directed by the OWNER, (i) the fabricated or unfabricated parts, Work in progress, completed Work, supplies, and other material produced as a part of, or acquired in connection with the performance of the Work terminated by the Notice Of Termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would have been required to be furnished to the OWNER;
  7. Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the OWNER, any property of the types referred to in (6) above; provided however, that the CONTRACTOR (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed and at a price or prices approved by the OWNER: and, provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the OWNER or the CONTRACTOR under this Contract, or shall otherwise be credited to the price or cost of the Work covered by this Contract or paid in other such manner as the OWNER may direct;
  8. Complete performance of such part of the Work as shall not have been terminated by the Notice Of Termination; and,
  9. Take such action as may be necessary, or as the OWNER may direct, for the protection and preservation of the property related to this Contract which is in the possession of the CONTRACTOR and which the OWNER has or may acquire an interest.
- c. After receipt of a Notice Of Termination, the CONTRACTOR shall submit to the OWNER his termination claim, in the form and with the certification prescribed by the OWNER. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the OWNER upon request of the CONTRACTOR made in writing within such one-year period or authorized extension thereof. However, if the OWNER determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one-year period or extension thereof. Upon failure of the CONTRACTOR to submit his termination claim within the time allowed, the OWNER may determine, on the basis of information available

to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall thereupon pay to the CONTRACTOR the amount so determined.

- d. Subject to the provisions of paragraph (c), the CONTRACTOR and the OWNER may agree upon the whole or any part of the amount or amounts to be paid to the CONTRACTOR by reason of the total or partial termination of Work pursuant to this clause which amount or amounts may include a reasonable allowance for profit on Work done: provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price or Work not terminated. The Contract shall be amended accordingly, and the Contract shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the CONTRACTOR in the event of failure of the CONTRACTOR and the OWNER to agree upon the whole amount to be paid to the CONTRACTOR by reason of the termination of Work pursuant to this paragraph (d).
- e. In the event of failure of the CONTRACTOR and the OWNER to agree as provided in paragraph (d) upon the whole amount to be paid to the Contract by reason of the termination of Work pursuant to this clause, the OWNER shall determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR; the amounts determined as follows:
  1. With respect to all Contract Work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:
    - i. The cost of such Work;
    - ii. The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders provided in paragraph (b)(5) above, exclusive of the amounts paid or payable on account of supplies or materials delivered, or services furnished by the subcontractor prior to the effective date of the Notice Of Termination of Work under this Contract, which amounts shall be included in the cost on account of which payment is made under (i) above, and;
    - iii. A sum, as profit on (i) above, determined by the OWNER to be fair and reasonable: provided; however, that if it appears that the CONTRACTOR would have sustained loss on the entire Contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and,
  2. The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b)(9); and any other reasonable cost incidental to termination of Work under this Contract, including expense incidental to the determination of the amount due to the CONTRACTOR as the result of the termination of Work under this Contract.



The total sum to be paid to the CONTRACTOR under (1) above shall not exceed the total Contract Price as reduced by the amount of payments otherwise made, and as further reduced by the Contract Price of Work not terminated. Except for normal spoilage, and except to the extent that the OWNER shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the CONTRACTOR under (1) above, the fair value, as determined by the OWNER, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the OWNER, or to a buyer pursuant to paragraph (b)(7).

- f. The CONTRACTOR shall have the right to dispute under the clause of this Contract entitled "Remedies" from any determination made by the OWNER under paragraph (c) or (e) above, except that, if the CONTRACTOR has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such item, he shall have no such right of appeal. In any case, where the OWNER has made a determination of the amount due under paragraph (c) or (e) above, the OWNER shall pay to the CONTRACTOR the following: (1) if there is no right of appeal hereunder, or if no timely appeal has been taken, the amount so determined by the OWNER, or (2) if a "Remedies" proceeding is initiated, the amount finally determined in such "Remedies" proceeding.
- g. In arriving at the amount due the CONTRACTOR under this clause, there shall be deducted (1) all unliquidated advance or other payments on account theretofore made to the CONTRACTOR, applicable to the terminated portion of this contract, (2) any claim which the OWNER may have against the CONTRACTOR in connection with this Contract, and (3) the agreed price for, or the proceeds of sale of any materials, supplies, or other things kept by the CONTRACTOR or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited by the OWNER.
- h. If the termination hereunder be partial, prior to the settlement of the terminated portion of this Contract, the CONTRACTOR may file with the OWNER a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice Of Termination) and such equitable adjustment as may be agreed upon shall be made in such price or prices; however, nothing contained herein shall limit the right of the OWNER and amounts to be paid to the CONTRACTOR for the completion of the continued portion of the Contract, when said Contract does not contain an established contract price for such continued portion.

#### ARTICLE 53: RIGHTS OF ACCESS

Nothing herein contained or shown on the drawings shall be construed as giving the CONTRACTOR exclusive occupancy of the Work area. The OWNER or any other contractors employed by him, the various utility companies, contractors, or subcontractors employed by State or Federal agencies, or any other agencies involved in the general Project or upon public rights-of-way, may enter upon or cross the area of Work or occupy portions of the area as is directed or necessary. When the territory of one contract is the convenient means of access to the other, the CONTRACTOR shall arrange his Work in such a manner as to permit such access to the other and prevent unnecessary delay to the Work as a whole.

#### ARTICLE 54: RIGHTS-OF-WAY AND SUSPENSION OF WORK

Land and rights-of-way for the purpose of this Contract shall be furnished by the OWNER to the extent shown on the drawings; the OWNER will use due diligence in acquiring said lands and rights-of-way as speedily as possible. If, however, lands or rights-of-way cannot be obtained before Work on the Project begins, the CONTRACTOR shall begin his Work upon such land or rights-of-way as have been previously acquired by the OWNER, and no claims for damages whatsoever will be allowed by reason of the delay in obtaining the remaining land and rights-of-way. Should the OWNER be prevented or enjoined from proceeding with the Work, or from authorizing its prosecution, either before or after the commencement by reason of litigation, or by reason of its inability to procure the land or rights-of-way for the said Work, the CONTRACTOR shall not be entitled to make or assert a claim for damages by reason of the said delay, or to withdraw from the Contract except by consent of the OWNER. Time for completion of Work will be extended to such time as the OWNER determines will compensate for the time lost by such delay, such determination to be set forth in writing.

#### ARTICLE 55: CONFORMANCE WITH DIRECTIONS

The OWNER may make alterations in the line, grade, plan, form, dimension, or materials of the Work, or any part thereof, either before or after the commencement of construction. Should such alterations diminish the quantity included in any item or Work to be done and paid for at a unit price, the CONTRACTOR shall have no claim for damages or for anticipated profits on the Work that thus may be dispensed with. If they increase the quantity included in any such item, such increase shall be paid for at the stipulated prices.

#### ARTICLE 56: INTERPRETATION OF THE DRAWINGS AND SPECIFICATIONS

Except for the CONTRACTOR'S executed set, all drawings and Specifications are the property of the OWNER. The OWNER will furnish the CONTRACTOR, without charge, three (3) sets of the drawings and Specifications. Additional sets will be furnished upon request, at actual cost of reproduction. Such drawings and Specifications are not to be used on other Work and those sets in usable condition shall be returned to the OWNER upon request at the completion of cessation of the Work or termination of the Contract.

The CONTRACTOR shall keep one (1) copy of the drawings and Specifications at the Work site at all times and shall give the OWNER and their representatives access thereto. Anything on the drawings and not mentioned in the Specifications, or anything in the Specifications that is not shown on the drawings shall have the same force and effect as if mentioned in both. In case of conflict or inconsistency between the drawings and the Specifications, the Specifications shall take precedence. Any discrepancy in the figures and the drawings shall be immediately submitted to the OWNER for decision and the decision of the OWNER shall be final. In case of differences between small and large scale drawings, the large scale drawings shall take precedence.

#### ARTICLE 57: SUSPENSION OF WORK

- a. The OWNER may order the CONTRACTOR in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be

appropriate for the convenience of the OWNER.

- b. If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the OWNER in administration of this Contract, or by his failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly.

However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Contract.

- c. No claim under this clause shall be allowed (1) for any costs incurred more than twenty (20) days before the CONTRACTOR shall have notified the OWNER in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Contract.

#### ARTICLE 58: INSPECTION

The authorized representatives and agents of the OWNER shall be permitted to inspect all Work materials, payroll, records of personnel, invoices for materials, and other relevant data and records.

The OWNER and Engineer and their representatives shall at all times have access to the work whenever it is in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the specifications, the Engineer's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the CONTRACTOR shall give the engineer timely notice of its readiness for inspection, and if the inspection is by another authority than the Engineer, of the date fixed for such inspection. Inspections by the Engineer shall be promptly made. If any work should be covered up without approval or consent of the Engineers it must, if required by the Engineer, be uncovered for examination and properly restored at the CONTRACTOR's expense.

#### PART IV

#### ARTICLE 59: SUBCONTRACTORS

The CONTRACTOR may utilize the services of specialty subcontractors on those parts of

the Work which, under normal contracting practices, are performed by specialty subcontractor.

The CONTRACTOR shall not award Work to any subcontractor other than those listed in his bid, without the prior written approval of the OWNER, which approval will not be given until the CONTRACTOR submits a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the OWNER may require.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work, to bind the subcontractors to the Contract Documents insofar as applicable to the subcontractor Work and to give the CONTRACTOR the same power as regards to terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provisions of the Contract Documents.

Nothing contained in this Contract shall create any contractual relationship between the OWNER and any subcontractor.

#### ARTICLE 60: MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the CONTRACTOR, any other contractor or any subcontractor shall suffer loss or damage to the Work, the CONTRACTOR agrees to settle with such other contractor or subcontractor by agreement or arbitration. If such other contractor or subcontractor shall assert any claim against the OWNER on account of any damage alleged to have been sustained, the OWNER shall notify the CONTRACTOR who shall indemnify and save harmless the OWNER against any such claim.

#### ARTICLE 61: ASSIGNMENTS

The CONTRACTOR shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without the written consent of the OWNER. In case the CONTRACTOR assigns all or part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the CONTRACTOR shall be subject to prior claims of all persons, firms, or corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

#### ARTICLE 62: SEPARATE CONTRACTS

The OWNER reserves the right to let other contracts in connection with the construction of the contemplated Work of the Project, or continuous Projects of the OWNER. The CONTRACTOR, therefore, will afford to any such other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, will properly connect and coordinate his Work with theirs, and will not commit or permit any act which will interfere with the performance of their Work.

The CONTRACTOR shall coordinate his operations with those of other contractors. Cooperation will be required in the arrangement for storage of materials and in the detailed execution of the Work. Failure by the CONTRACTOR to keep informed on the progress of defective workmanship by others, shall be construed as acceptance by him of the status of the

Work as being satisfactory for proper coordination with and performance of his own Work.

#### ARTICLE 63: WORK BY OTHERS

The OWNER reserves the right to do any other Work which may be connected with, or become a part of, or be adjacent to the Work embraced by this Contract, at any time, by Contract or otherwise. The CONTRACTOR shall not interfere with the Work of such others as the OWNER may employ, and shall execute his own Work in such a manner as to aid in the execution of the Work of others as may be required. No backfilling of trenches or excavations will be permitted until such Work by the OWNER is completed.

### **PART V**

#### ARTICLE 64: WAGE UNDERPAYMENT AND ADJUSTMENTS

The CONTRACTOR agrees that in case of underpayment of wages to any worker on the Project under this Contract by the CONTRACTOR or any of his subcontractors, the OWNER will withhold from the CONTRACTOR out of payments due to him, an amount sufficient to pay such worker the difference between the wages required to be paid under this Contract and the wages actually paid such worker for the total number of hours worked, and that the OWNER may disburse such amount so withheld by it for and on account of the CONTRACTOR to the employee to whom such amount is due. The CONTRACTOR further agrees that the amount withheld pursuant to this article may be in addition to the percentage to be retained by the OWNER pursuant to other provisions of this Contract.

#### ARTICLE 65: PAYMENT OF EMPLOYEES

The CONTRACTOR and each of his subcontractors shall pay each of their employees engaged in the Work on the Project under this Contract in full, in cash, and not less than once a week, less legally required reductions, provided, that when circumstances render payment in cash unfeasible or impracticable, then payment by check may be effected upon consideration that funds are made available in a local bank and checks may be cashed without charge, trade requirements, or inconvenience to the worker.

#### ARTICLE 66: NON-DISCRIMINATION IN EMPLOYMENT

In connection with the performance of the Work under this Contract, the CONTRACTOR agrees not to discriminate against employee because of race, religion, color, or national origin. The aforesaid provisions shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.

#### ARTICLE 67: APPRENTICES

Apprentices shall be permitted to Work only under a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, United State Department of Labor; or if no such Council exists in a State, under a program registered with the Bureau of Apprenticeship, United State Department of Labor.

## **PART VI**

### **ARTICLE 68: SHOP OR SETTING DRAWINGS**

- a. The CONTRACTOR shall submit promptly to the OWNER six (6) copies of each shop or setting drawing prepared in accordance with a schedule predetermined by the CONTRACTOR. After examination of such drawings by the OWNER, and the return thereof, if resubmission is required, the CONTRACTOR shall make such corrections to the drawings as have been indicated and shall furnish the OWNER with six (6) corrected copies. Regardless of corrections made in or approval given to such drawings by the OWNER, the CONTRACTOR will, nevertheless, be responsible for the accuracy of such drawings and for their conformity to the drawings and Specifications, unless he notifies the OWNER in writing of any deviations at the time he furnishes the drawings.
- b. Shop drawings of all fabricated Work shall be submitted to the OWNER for approval and no Work shall be fabricated by the CONTRACTOR save at his own risk until approval has been given by the OWNER. The Special Conditions define the shop drawings required for this Project.
- c. The CONTRACTOR shall submit all shop and setting drawings on dates sufficiently in advance of requirements to enable the OWNER ample time for reviewing the same, including time for correcting, resubmission and reviewing, if necessary, and no claim for delay will be granted the CONTRACTOR by reason of his failure in this respect.
- d. All shop drawings submitted must bear the stamp of the CONTRACTOR as evidence that the drawings have been checked by him. Any drawings submitted without this stamp of approval will not be considered and will be returned to the CONTRACTOR for resubmissions. If the shop drawings show deviations from the requirements of the Contract Documents because of standard shop practice or other reason, the CONTRACTOR shall make specific mention of such variation in his letter of transmittal to the OWNER, in order that an acceptable, suitable action may be taken for proper adjustment; otherwise the CONTRACTOR will not be relieved of the responsibility for executing the Work in accordance with the Contract Documents even though the shop drawings have been approved.
- e. Where shop drawings are submitted by the CONTRACTOR that indicate a departure from the Contract which the OWNER deems to be a minor adjustment in his interest and not involving a change in the Contract Price or extension of time, the OWNER may approve the drawings but the approval will contain in substance, the following:

"The modification shown on the attached drawings is approved in the interest of the OWNER to effect an improvement for the Project and is ordered with the understanding that it does not involve any change in the Contract Price or an extension of time, that it is subject generally to all Contract stipulations and covenants; and that it is without prejudice to any rights of the OWNER under the Contract and bond or bonds."

- f. The approval of the shop drawings will be general and shall not relieve the CONTRACTOR from the responsibility for adherence to the Contract, for any error which may exist.
- g. The CONTRACTOR agrees to hold the Engineer and the OWNER harmless and defend them against damages or claims for damages arising out of injury to others or property of third persons which result from errors on shop, working, or setting drawings whether or not they have been approved by the Engineer and/or the OWNER.

ARTICLE 69: WORK TO BE ACCOMPLISHED IN ACCORDANCE WITH THE  
DRAWINGS AND SPECIFICATIONS

The Work, during its progress and at its completion, shall conform to the lines and grades shown on the drawings and to the directions given by the OWNER from time to time, subject to such modifications or additions as he shall determine to be necessary during execution of the Work; and in no case will any Work be paid for in excess of such requirements. The Work shall also be accomplished in accordance with the data in these Specifications.

**ARTICLE 70: CONTRACTOR TO CHECK DIMENSIONS AND SCHEDULES**

The CONTRACTOR will be required to check all dimensions and quantities shown on the drawings or schedules given to him by the OWNER, and shall notify the OWNER of all errors therein which he may discover by examining and checking the same. The CONTRACTOR shall not take advantage of any error or omissions in furnishing all instructions, should such error or omissions be discovered, and the CONTRACTOR shall carry out such instructions as if originally specified.

## ARTICLE 71: ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The CONTRACTOR will be furnished additional instructions and detail drawings as necessary to carry out the Work included in the Contract. The additional drawings and instruction thus supplied to the CONTRACTOR will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The CONTRACTOR shall carry out the Work in accordance with the additional detail drawings and instructions. The CONTRACTOR and the OWNER will prepare jointly a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing, and installation of materials, supplies and equipment, and the completion of the various parts of the Work; each schedule to be subject to change from time to time in accordance with the progress of the Work.

## ARTICLE 72: MATERIALS, SERVICES, AND FACILITIES

It is understood that, except as otherwise specifically stated in the Contract Documents, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever, necessary to protect, execute, complete, and deliver the Work within the specified time.

The CONTRACTOR shall submit to the Engineer for approval material and apparatus included under this contract and as listed in detail under the respective items together with samples, tests of materials, documentary evidence or other information in such detail as may be necessary to permit the Engineer to determine whether the same comply with the specifications, and written approval shall be obtained prior to the incorporation of the material, apparatus or equipment in the work.

Where accepted Standard Specifications for materials or conduct of work are referred to in these specifications, such Standard Specifications shall be considered a part of these specifications the same as if repeated therein verbatim. In the specifications there are specified and shown certain equipment and materials deemed most suitable for the service anticipated. The awarding of the contract will constitute a contractual obligation to furnish the specified equipment and materials unless the CONTRACTOR desired to follow procedures.

After the execution of the contract, substitution of equipment of makes other than those named in the contract will be considered for two reasons only:

- A. That the equipment proposed for substitution is superior in the construction and/or efficiency to that named in the contract.
- B. That the equipment proposed for substitution is equal in construction and/or efficiency to that named in the contract.

In the event the CONTRACTOR obtains the Engineer's approval on equipment other than that for which the plan was originally laid out, the contractor shall at his own expense make any changes in the structures, buildings or piping necessary to accommodate the equipment named in the contract and if the substitution is approved, the contract price shall be reduced by an amount equal to 75% of the savings, if any.

#### ARTICLE 73: CONTRACTOR'S TITLE TO MATERIALS

No material, supplies, or equipment for the Work shall be purchased by the CONTRACTOR or any subcontractor, subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The CONTRACTOR warrants good title to all material, supplies, and equipment installed or incorporated in the Work and further warrants upon completion of all Work, to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by him, to the OWNER free from any claims, liens, or charges, or encumbrances and further agrees that neither he nor any person, firm, or corporation



furnishing any material or labor or any Work covered by this Contract shall have the right to a lien upon the premises or any improvement or appurtenance thereon.

#### ARTICLE 74: INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the Project shall be new and of current manufacture. Testing will be done in accordance with accepted standards and as directed by the OWNER; the laboratory or inspection agency shall be selected by the OWNER. Except as specified elsewhere in these Specifications, the OWNER will pay for laboratory inspection.

All materials and workmanship shall be subject to inspection, examination, and testing by the OWNER at any and all times during manufacture and/or construction, to establish conformance with these Specifications and suitability for uses intended. Without additional charge, the CONTRACTOR shall furnish promptly all reasonable facilities, labor, and materials necessary to make tests so required safe and convenient. He shall also furnish mill, factory, or other such tests based on the Standards and Tentative Standards of the American Society for Testing materials as required by the OWNER.

#### ARTICLE 75: DEFECTIVE MATERIALS

No materials shall be laid or used which are known, or may be found to be in any way defective. Any materials found to be defective at the site of Work or upon installation shall be replaced by the CONTRACTOR at his own expense. Notice shall be given to the OWNER of any defective or imperfect material. Defective or unfit material found to have been laid, shall be removed and replaced by the CONTRACTOR with sound and unobjectionable material, without additional cost to the OWNER.

#### ARTICLE 76: PATENTS

- a. The CONTRACTOR shall hold and save the OWNER harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the Contract, including its use by the OWNER.
- b. License and/or royalty fees for the use of a process which is authorized by the OWNER must be reasonable, and paid to the holder of the patent, or his authorized agent, directly by the CONTRACTOR.
- c. If the CONTRACTOR uses any design, device or material covered by letters, patent, or copyright, he shall provide for such use by suitable agreement with the OWNER or such patent or copyrighted design, device, or material.
- d. It is mutually agreed and understood that, without exception, the Contract Price shall include all royalties, license fees, or costs arising out of the use of such process, design, device, or materials, in any way involved in the Work. The CONTRACTOR and/or his Surety shall indemnify and save the Engineer and the OWNER harmless from all claims for infringement by reason of use of such patented material, device, or design in connection with the Work under this Contract, and shall indemnify the

Engineer and the OWNER for any cost, expense, or damage which it may be obligated to pay for reason of such infringement at any time during the prosecution of the Work.

**ARTICLE 77: "OR APPROVED EQUAL" CLAUSE**

- a. Whenever a material of article required is specified or shown on the drawings by using the name of the proprietary product or of a particular manufacturer or vendor, any material or article which will perform adequately the duties imposed by the general design may be considered equal and satisfactory providing the material or article so proposed is of equal substance and function in the OWNER'S sole opinion. It shall not be purchased or installed without his written approval. In all cases, new material shall be used on the Project.
- b. If two (2) or more brands, makes of material, devices, or equipment are shown or specified, each should be regarded as the approved equal of the other. Any other brand, make or material, device or equipment, which, in the opinion of the OWNER or his authorized agent, is the recognized approved equal of that specified, considering quality, workmanship, and economy of operation, and is suitable for the purpose intended, may be accepted.
- c. If any other material or article is substituted for items shown or specified, the Project must result in a savings in the Contract Price and the CONTRACTOR shall submit evidence that the substitute product is equal. Upon approval of the substitute product, the OWNER will issue a deductive change order.
- d. If an equipment manufacturer must have a specified period of experience with his product, equipment which does not meet with the specified experience period may, at the option of the OWNER, be considered if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period which will guarantee replacement of that equipment in the event of failure.

**PART VII**

**ARTICLE 78: INSURANCE**

The CONTRACTOR shall be responsible for maintaining insurance coverage in force for the life of this Contract of the kind and adequate amounts to secure all of this obligations under this Contract and with insurance companies licensed to write such insurance in the State of Rhode Island and acceptable to the OWNER. The kinds and amounts of such insurance carried shall not be less than the kinds and amounts of insurance coverage designated in the Special Conditions, and the CONTRACTOR agrees that the stipulation therein of the kinds and minimum amounts of coverage or the acceptance by the OWNER of certificates indicating the kinds and limits of coverage shall in no way limit the liability of the CONTRACTOR to any such kinds and amounts of insurance coverage. All policies issued shall indemnify and save harmless the OWNER, the Engineer, and their agents or representatives from any and all claims for damages arising out of the Contract, to either persons or property.

Policies and certificates of all insurance shall be submitted to the OWNER by the CONTRACTOR in sextuplicate (6 copies) prior to preparation of the construction Contract. In the event that the form of any policy or amount or insurance company writing same is not satisfactory to the OWNER, the CONTRACTOR shall re-submit all required items to the OWNER prior to the signing of the Contract. This requirement to re-submit shall not automatically extend the time limit specified elsewhere in these documents for the submittal of required items. The CONTRACTOR shall not cause policies to be canceled or permit them to lapse, and all insurance policies shall include a clause to the effect that the policy shall not be subject to cancellation or a reduction in the required limits of liability amounts of insurance until notice has been sent by registered mail to the OWNER, stating when, not less than ten (10) days thereafter, such cancellation or reduction shall be effective. All certificates of insurance shall contain true transcripts from the policy, authenticated by the proper officer of the insurer evidencing in particular, those insured, the extent of the insurance, the location and operations to which the insurance applies, the expiration date, and the above-mentioned notice of cancellation clause.

The CONTRACTOR shall be responsible for the provision of identical insurance coverage for all his subcontract operations and, in the event that the CONTRACTOR'S policies do not cover each and every subcontractor, certificates of insurance issued on policies by companies that are acceptable to the OWNER covering each and every subcontractor shall be filed under the OWNER in sextuplicate (6 copies) prior to the commencement of such subcontract operations. All insurance specified in this Contract shall be provided by the CONTRACTOR, at no additional expense to the OWNER.

## **PART VIII**

### **ARTICLE 79: COMPENSATION TO BE PAID TO THE CONTRACTOR**

- a. The OWNER will pay and the CONTRACTOR shall receive as full compensation for everything furnished and one by the CONTRACTOR under this Contract, the unit prices and lump sum prices set opposite the respective items in the accepted bid form herein contained, and payment for approved extra Work.

The cost of all Work required not specifically included in any items herein mentioned, and also for all loss or damage arising out of the nature of the Work aforesaid or from the action of the elements, or from any unforeseen obstruction or difficulty encountered in the prosecution of the Work and for all risks of every description connected with the Work, and for all expenses incurred by or in consequence of the suspension or discontinuance of the Work as herein specified, and for assuming all duties, and liabilities, herein required, and for well and faithfully completing the Work, and the whole thereof, as herein provided, shall be the responsibility of the CONTRACTOR.

- b. The amount of the Contract (accepted bid price/prices) listed in the bid is based on the estimated quantities and the unit and/or lump sum price as set forth in the bid. It is understood and agreed that the CONTRACTOR will accept as payment the actual measured quantities at the unit and/or lump sum price as set forth in the accepted bid.
- c. The estimated quantities given in the bid proposal for the various items of Work are

given for the purpose of comparing the bids offered for the Work under this Contract and if it is found in the performance of the Contract Work that any or all of the said estimated quantities are not even approximately correct, the CONTRACTOR shall have no claim for anticipated profits, or for loss of profit, or for increase in prices as listed in the accepted bid because of the difference between the quantities of the various items of Work actually done and the estimated quantities stated in the accepted bid.

- d. No payment or compensation will be made to the CONTRACTOR for damages because of hindrance or delay from any cause in the progress of the Work, whether such hindrances or delays be avoidable or unavoidable.

#### ARTICLE 80: PAYMENTS TO CONTRACTOR

- a. At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR shall submit to the OWNER a partial payment estimate filled out and signed by the CONTRACTOR covering the Work performed during the period covered by the partial payment estimate and supported by such data as the OWNER may reasonably require. If payment is requested with the OWNER'S permission of the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at or near the site, in accordance with the manufacturer's recommendation and as required by the OWNER, the partial payment estimate shall also be accompanied by such supporting data satisfactory to the OWNER, as will establish the OWNER'S title to the material and equipment applicable insurance. The OWNER will within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval, or return the partial payment estimate to the CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will within thirty (30) days of presentation to him of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The OWNER shall retain ten (10) percent of the amount of each payment, plus any additional percent which is specified in these documents.
- b. The retainage shall remain at ten percent (10%) until sixty-five percent (65%) of the Contract is complete. At that time, if the OWNER decides the CONTRACTOR is making adequate progress, the OWNER may reduce retainage to five percent (5%). Any further reduction will be at the OWNER's discretion. At no time shall retainage be reduced below two percent (2%), until completion of the one-year General Guarantee period.
- c. With each partial payment estimate, the CONTRACTOR shall certify in writing that the Project As-Built Drawings are being maintained accurately and currently. Said certificate shall be signed by the CONTRACTOR'S Superintendent and the CONTRACTOR'S Engineer or Surveyor. Any payment estimate not having said certification attached will be subject to refusal of payment.
- d. Prior to substantial completion, the OWNER, with the approval and concurrence of the CONTRACTOR, may use any completed or substantially completed portions of

- the Work. Such use shall not constitute an acceptance of such portion of the Work.
- e. The OWNER shall have the right to enter the premises for the purpose of doing Work not covered by the Contract Documents. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the Work or the restoration of any damaged Work except such as may be caused by agents or employees of the OWNER.
  - f. Upon completion and acceptance of the Work, the OWNER shall issue a certificate attached to the final payment request that the Work has been accepted by him under the conditions of the Contract Documents. The entire balance found to be due the CONTRACTOR, less a two percent (2%) retainage plus other such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within forty-five (45) days of completion and acceptance of the Work. The two percent (2%) retainage shall be paid to the CONTRACTOR at the completion of the one-year General Guarantee period (see General Conditions, "Article 25: General Guarantee").
  - g. The CONTRACTOR will indemnify and save the OWNER or the OWNER'S representative harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the furtherance of the performance of the Work. The CONTRACTOR shall at the OWNER'S request furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so, the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed in accordance with the terms of the Contract Documents. This shall not be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the Contract Documents by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

#### ARTICLE 81: CHANGE ORDERS

- a. The OWNER may, at any time, without notice of the sureties, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of this Contract, including but not limited to changes:
  - 1. In the Specifications (including drawings and design);
  - 2. In the method or manner of performance of the Work;
  - 3. In the OWNER-furnished facilities, equipments, materials, services or site; or
  - 4. Directing acceleration in the performance of the Work.
- b. Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation or determination) from the OWNER, which causes any such change, shall be treated as a Change Order under

this clause, provided that the CONTRACTOR gives the OWNER written notice stating the date, circumstances, and source of the order and that the CONTRACTOR regards the order as a Change Order.

- c. Except as herein provided, no order, statement, or conduct of the OWNER shall be treated as a change under this clause or entitle the CONTRACTOR to an equitable adjustment hereunder.
- d. If any change, by Change Order, causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, the performance of any part of the Work under this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly: provided; however, that no claim for any Change Order (b) above shall be allowed for any costs incurred more than twenty (20) days before the CONTRACTOR gives written notice as therein required: and, provided further, that in case of defective Specifications for which the OWNER is responsible, the equitable adjustment shall include only increased cost reasonably incurred by the CONTRACTOR in attempting to comply with such defective Specifications.
- e. If the CONTRACTOR intends to assert a claim for an equitable adjustment under this clause, he must, within thirty (30) days after receipt of a written Change Order under (a) above or the furnishing of a written notice under (b) above, submit to the OWNER a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the OWNER. The statement of claim hereunder may be included in the notice under (b) above.
- f. No claim by the CONTRACTOR for an equitable adjustment hereunder for any amount shall be allowed unless agreed to by Change Order prior to the Work being done.

#### ARTICLE 82: CHANGES IN THE WORK

No changes in the Work covered by the approved Contract Documents shall be made without having prior written approval of the OWNER. Charges or credits for the Work covered by the approved changes shall be determined by one or more, or a combination of the following methods as the OWNER shall direct:

- a. Unit price bid previously approved;
- b. The actual cost of: labor, materials, OWNERship or rental costs of construction plant and equipment during the use of item on the extra Work; power and consumable supplies for the operation of power and equipment;
- c. Insurance; and
- d. Social Security and Unemployment contributions.

To the cost of "b" above, there shall be added a fixed fee to be agreed upon but not to exceed ten (10) percent. The fee shall be compensation to cover the cost of supervision, overhead, bonds, profits, and any other general expenses.

ARTICLE 83: CLAIMS FOR EXTRA COST

No claims for extra Work or cost will be allowed unless the same were done in pursuance of a written order of the OWNER as aforesaid, and the claim presented with the first estimate after the changed or extra Work is done. When the Work is performed under terms specified elsewhere in the Contract, the CONTRACTOR shall furnish satisfactory bills, payrolls, and vouchers covering all items of cost and upon the OWNER'S request, give him full access to the accounts relating thereto.

ARTICLE 84: CHANGES AND MODIFICATIONS

The OWNER reserves the right to delete or cancel any item or items or parts thereof as listed in the bid, without recourse by the CONTRACTOR. The OWNER also reserves the right to add to any item as listed in the bid. The compensation to be paid to the CONTRACTOR for such additional extensions, appurtenances, or items shall be made under the applicable items in the bid. If no applicable items are provided in the bid, the compensation to be paid the CONTRACTOR shall be set forth under the article entitled "Changes In The Work" as found herein.

ARTICLE 85: DEDUCTION FOR UNCORRECTED WORK

If the OWNER deems it inexpedient to correct work that has been damaged or that was not done in accordance with the CONTRACTOR, an equitable deduction from the Contract price shall be made therefore.

ARTICLE 86: CORRECTION OF WORK BEFORE FINAL PAYMENT

The contractor shall promptly remove from the premises all materials condemned by the OWNER as failing to meet Contract requirements, whether incorporated in the work or not, and the CONTRACTOR shall promptly replace and re-execute his work in accordance with the Contract and without expense to the OWNER and shall bear the expense of making good all work of other contractors destroyed by such removal or replacement.

If the CONTRACTOR does not remove such condemned work and materials as promptly as possible, after written notice, the OWNER may remove them and store the material at the expense of the CONTRACTOR.

ARTICLE 87: ACCEPTANCE OF THE FINAL PAYMENT CONSTITUTES RELEASE

The acceptance of the Final Payment by the CONTRACTOR shall be and shall operate as a release to the OWNER for all claims and all liability to the CONTRACTOR for all things done or furnished in connection with this Work and for every act or neglect of the OWNER and others relating to or arising out of this Work. No payment, however, final or otherwise, shall operate as a release of the CONTRACTOR or his Surety from any obligations under this Contract, the Performance Bond, or the Labor and Material Payment Bond.

ARTICLE 88: FEDERAL DRUG AND ALCOHOL TESTING PROGRAM

Any and all contractors/subcontractors performing work under this contract shall, where applicable, comply with the Federal Omnibus Transportation Employee Testing Act of 1991 (the "Act"), which requires controlled substance and alcohol testing of all employees that perform safety sensitive duties and/or functions, and/or who hold a Commercial Drivers License (CDL). To the extent allowable under the confidentiality provisions of the Act, the Town reserves the right to review the contractor's/subcontractor's testing programs for compliance.



## **SPECIAL CONDITIONS**

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Narragansett Town Beach South Lot Re-Paving

23. .... DISASTER RECOVERY SERVICES

**ARTICLE 1: ENUMERATION OF DRAWINGS, SPECIFICATIONS AND ADDENDA**

The following are the Drawings, Specifications, and Addenda which form a part of this Contract, as set forth in Article 1 of the General Conditions of these Contract Documents.

- a. DRAWINGS:
- b. GENERAL CONDITIONS
- c. SPECIAL CONDITIONS
- d. TECHNICAL SPECIFICATIONS
- e. ADDENDA

No.

Dated:

No.

Dated:

**ARTICLE 2: SUBSURFACE DATA**

Subsurface soil information and investigations have been obtained for use by the OWNER for the purpose of design of the Project; the subsurface soils data that may be shown, including the results of borings indicated in the Specifications (if available), are for the general information of the CONTRACTOR and the bidders; the attention of both is directed to the fact that by reason of methods commonly used for obtaining and expressing such boring data, this information and data may be limited and subject to error or misunderstanding. The terms used to describe soils, rock, groundwater, and such other conditions are subject to local usage and to the individual interpretation of the person making and obtaining the records. The borings have been made with reasonable care, substantially at the locations indicated on the Drawings, and to the depths shown. Groundwater levels indicated in the Specifications are those reported by the driller to be existing at the particular boring location at the time subsurface investigations were made and do not necessarily represent permanent groundwater levels. It shall be the responsibility of the CONTRACTOR to determine for himself annual and seasonal variations in groundwater levels which may affect his Work. Each bidder is expected to examine the site and the compiled record of investigations and information and then, based on his own inspection, interpretations, and such other investigations as he may desire, decide for himself the character of the materials to be used for backfilling and such other purposes; groundwater conditions; difficulties or obstacles likely to be encountered; and other conditions affecting the Work.

No warranty, either expressed or implied by the OWNER, the Engineer, or their agents, is made as to the accuracy of the subsurface information and the data indicated in the Specifications. The Engineer and the OWNER, together with their agents will not assume responsibility for any consequences, delays, expenses, or losses which may occur or have occurred in the event that such information shall be found to be incomplete, incorrect or misleading; nor shall such variations or inaccuracies in the indications of subsurface information and data constitute grounds for revision in the Contract Price or the time of completion.

**ARTICLE 3 FAMILIARITY WITH SITE/CONTRACT DOCUMENTS**

It is the responsibility of the BIDDER/CONTRACTOR to visit the Project site and become familiar with all applicable existing conditions. This responsibility extends to any and all subcontractors or tradespersons employed or intended to be employed by the successful CONTRACTOR. It is furthermore the responsibility of the BIDDER/CONTRACTOR to examine the Contract Documents and become familiar with same, and to insure that said familiarity extends to any and all subcontractors or tradespersons as referenced above. No claim for extra compensation shall be entertained for Work required be done which an examination or examinations of the Site and/or the Contract Documents would have revealed as necessary to accomplish the purpose intended or indicated within the Contract Documents.

#### ARTICLE 4: SITE OPERATIONS/SECURITY

It is specifically brought to the attention of the CONTRACTOR that the project area, especially if said area involves Town buildings or surrounding operations areas, may contain full-time, active, municipal operations, where said operations are sometimes demand-based and cannot be compromised. By definition, Town buildings and surrounding operations areas must be secure, and access to these buildings and areas will require close and careful communication and coordination with the appropriate Town personnel. At the request of the OWNER, the CONTRACTOR shall prepare and submit a Construction Sequence Plan to address this coordination, and the CONTRACTOR must insure that his/her employees and subcontractors fully understand the requirements therein.

#### ARTICLE 5: EXISTING UTILITIES OR CONNECTIONS

The location of existing underground pipes, conduits, and structures as shown has been collected from the best available sources, and the OWNER, together with his agents, does not imply or guarantee the data and information in connection with underground pipes, conduits, structures, and such other parts, as to their completeness, nor their locations as indicated. The CONTRACTOR shall assume that there are existing water, gas and other utility connections to each and every building enroute, whether they appear on the drawings or not. Any expense and/or delay occasioned by utilities and structures or damage thereto, including those not shown, shall be the responsibility of the CONTRACTOR, at no additional expense to the OWNER.

Before proceeding with construction operations, the CONTRACTOR shall make such supplemental investigations, including exploratory excavations by hand digging, as he deems necessary to uncover and determine the exact locations of utilities and structures and shall have no claims for damages due to encountering subsurface structures or utilities in locations other than those shown on the drawings, or which are made known to the CONTRACTOR prior to construction operations. The CONTRACTOR shall be responsible and liable for all damages to existing utilities and structures.

#### ARTICLE 6: INTERFERENCE WITH EXISTING STRUCTURES

Whenever it may be necessary to cross or interfere with existing culverts, drains, sewers, water pipes, fixtures, guardrails, fences, gas pipes, or other structures needing special care,

due notice shall be given to the OWNER, and the Work shall be done according to his directions. Whenever required, all objects shall be strengthened to meet any additional stress that the Work herein specified may impose upon it, and any damage caused shall be thoroughly repaired. If so directed by the OWNER, the location of any existing Work shall be changed to meet the requirements of the new utilities or appurtenances or the utilities system may be relocated, if necessary to leave all in good working order. The entire Work shall be performed at no expense to the OWNER.

The CONTRACTOR shall be responsible for all broken mains or utilities encountered during the progress of the Work and shall repair and be responsible for correcting all damages to existing utilities and structures at no additional cost to the OWNER. The CONTRACTOR shall contact the proper utility or authority to correct or make any changes due to utilities or other obstructions during the Work or construction of the utilities system, but the entire responsibility and expense shall be with the CONTRACTOR, except as otherwise specified herein.

All damaged items of Work or items required to be removed and replaced due to construction shall be replaced or repaired by the CONTRACTOR to the complete satisfaction of the property OWNER and/or the OWNER, and at no additional expense to the OWNER.

#### ARTICLE 7: REMOVAL OF WATER AND PROTECTION FROM FLOODING

The excavations for pipelines, structures, and appurtenant Work required under this Contract are to some extent below existing groundwater levels. The CONTRACTOR shall construct and maintain all pumps, drains, wellpoints or any other facilities for the control, collection, and disposal of groundwater or surface and subsurface water encountered in the performance of the Contract Work and provide all pumps, piping, and ditching for the removal of water from the trenches and excavations so that all trenches and excavations may be kept free from water at all times and so that the Work under this Contract may be performed in the dry. Any damage to existing Work or to the Contract Work resulting from the failure of the CONTRACTOR'S dewatering operations, shall be repaired by the CONTRACTOR, as directed by the OWNER, at no additional expense to the OWNER. The CONTRACTOR'S dewatering and pumping operations shall be carried out in such a manner that no loss of ground will result from these operations. Precautions shall be taken to protect new and existing Work from flooding or damage during storms or other causes. Pumping shall be continuous where directed and necessary to protect the Work and to maintain satisfactory progress. All pipelines or structures not stable against uplift during construction or prior to completion shall be thoroughly braced or otherwise protected. Water from the trenches, excavations, and drainage operations shall be disposed of in such a manner as will neither cause injury to public health or private property, nor to the Work completed or in progress. Dewatering of excavations shall be accomplished by methods which have been approved, prior to commencement of Work, by the OWNER and which have a background of successful dewatering of excavations of the type employed for the Work. The CONTRACTOR shall construct ditches, do all grading, and do all other Work as may be necessary to divert and exclude surface water and water from dewatering operations from excavation and Work areas.

#### ARTICLE 8: PROTECTION OF TREES

The CONTRACTOR shall take special care to preserve and protect from injury all trees located along the lines of construction, and no such trees shall be cut down, trimmed, or otherwise cut without permission from the OWNER.

#### ARTICLE 9: PROVISION FOR FLOW OF PRESENT DRAINAGE

Provision for the flow in all sewers, drains, and water courses that are met or altered during the construction shall be provided by the CONTRACTOR and all connections shall be restored without extra charge. All offensive matter shall be removed immediately with such precautions as may be directed. If required, the CONTRACTOR shall install temporary bypass connections for sewer, drains, and water facilities to provide uninterrupted or continuous service during the Work or construction.

#### ARTICLE 10: POLLUTION OF WATERS

Special care shall be taken to prevent contamination of muddying up or interfering in any way with the stream flows, if any, along the line of Work. No waste matter of any kind will be allowed to discharge into the stream flows or impounded water of any pools or other bodies of water.

#### ARTICLE 11: TURF, TOPSOIL, AND OTHER REPLACED ITEMS

Where the system is constructed through cultivated or sodded lands, the CONTRACTOR shall save the turf and topsoil separately and replace the same after the trench is filled, leaving the land as nearly as possible in its original condition. Trees, fences, walls, walks, mailboxes, and such other items must not be damaged.

#### ARTICLE 12: LENGTH OF TRENCH TO BE OPENED

The length of trench opened at any time from the point where ground is being broken to complete backfill and also the amount of space in the streets or public and private lands occupied by equipment or supplies, shall not exceed the length or space considered reasonably necessary and expedient by the OWNER. In determining the length of the open trench or spaces for equipment, materials and supplies and other necessities, the OWNER will consider the nature of the lands or streets where Work is being done, types and methods of construction and equipment being used, inconvenience to the public or to private parties, possible dangers and other matters. All Work must be constructed with a minimum of inconvenience and danger to all parties concerned.

Whenever the trench obstructs pedestrians and vehicular traffic, or any public or private property, the CONTRACTOR shall take such means as is necessary to maintain such traffic and access. Until such time as the Work may have attained sufficient strength to support backfill, or if for any reason it is not expedient to backfill the trench immediately, the CONTRACTOR shall construct and maintain suitable plank crossings and bridge crossings to carry essential traffic in or to the street or property in question, as specified or directed.

Suitable lights, signs, and such required items to direct traffic shall be furnished and maintained by the CONTRACTOR.

The CONTRACTOR shall keep streets free from obstructions, debris and all other materials. The OWNER may, at any time, order the removal of any such material from the Work area and should the CONTRACTOR fail to do so within 24 hours after such notice of removal of the same, the OWNER may cause the material, debris, or other matter to be removed by some other such persons as he may employ, at the CONTRACTOR'S expense. The cost thereof may be deducted from any payments due the CONTRACTOR under this Contract. In special cases where public safety demands, the OWNER may remove such materials without prior notice.

#### ARTICLE 13: RESERVED MATERIALS

Materials found on the Work site suitable for any special use, shall be preserved for that purpose. Where permitted, the CONTRACTOR may use in the various parts of the Work, without charge, any materials taken from the excavation.

#### ARTICLE 14: CROSSINGS

As required or directed by the OWNER, the CONTRACTOR shall install in selected locations suitable crossings, substantially built and reinforced to sustain vehicular traffic across excavations. No separate payment will be made for this Work, the cost of which shall be included in the prices stipulated for the appropriate items in the Work as listed in the bid.

#### ARTICLE 15: CLEANING FINISHED WORK

After the Work is completed, the pipes, manholes and structures shall be carefully cleaned free of debris and dirt, broken masonry, and mortar, and left in first class condition, ready to use. All temporary or excess materials shall be disposed of off-site and the Work left broom-clean, to the satisfaction of the OWNER.

#### ARTICLE 16: FIRE AND POLICE NOTIFICATION

If it becomes necessary at any time to temporarily barricade a street or cause detours to be put up, or rerouting of traffic, the Fire and Police Departments shall be notified by the CONTRACTOR, and their consent obtained before any such action is initiated.

#### ARTICLE 17: STREETS AND SIDEWALKS TO BE KEPT OPEN

The CONTRACTOR shall at all times keep the streets and highways in which he may be working open for pedestrian and vehicular traffic. If in the opinion of the OWNER, the interest of abutters and the public requires it, the CONTRACTOR shall bridge or construct planking across trenches at street crossings and roads or private ways. The CONTRACTOR shall conduct his Work in such a manner as the OWNER may direct from time to time. No sidewalk shall be obstructed where it is possible to avoid it.

The CONTRACTOR shall provide all necessary fire crossings at principal intersections or ways usually traveled by fire apparatus with provisions for the apparatus so it can travel along the line of the pipe installations.

#### ARTICLE 18: BLASTING



- A. In the rock excavation, it is especially required that the blasting shall be conducted with all possible care in order to avoid injury to persons and property. The rock shall be well-covered and a sufficient warning shall be given to all persons in the vicinity of the Work before blasting occurs.
- B. The explosives used shall be of such power and placed in such quantities and positions that will not make the excavation unduly large nor shatter unnecessarily upon or against where the Work is to be installed nor injure the Work already in place. Where masonry is to be built against the rock, all loose or shattered rock shall be completely removed so the masonry can be built firmly in contact with the solid rock.
- C. Explosives must be carefully transported, stored, handled, and used as required by the local, State and Federal laws, and the necessary permits for such transportation, storage, handling, and use shall be obtained by the CONTRACTOR who shall show such permits to the OWNER before any blasting is allowed. The CONTRACTOR shall keep on the job only such quantity of explosive as may be needed for the Work underway and only during such time as they are being used. Explosives shall be stored in a secure manner and separately from all tools. Caps or detonators shall be stored separately at a point 100 feet distant from the explosives. Receptacles especially designed for use in the storage of explosives shall be used, and they shall be proofed against bullet, fire, or other conditions which might cause explosion of the contents. When the need for explosives is ended, all such material remaining on the job shall be promptly removed from the premises.
- D. Under any circumstances, the approval of the OWNER shall first be obtained before blasting is permitted. Where, in the opinion of the OWNER, blasting is unsafe or dangerous to persons or existing structures and utilities, the CONTRACTOR shall employ pneumatic tools, drilling and splitting mechanically or by hand or other means not requiring the use of explosives for the removal of rock, boulders or ledge; at no added expense to the OWNER.
- E. Before any explosives, such as dynamite or detonator caps are stored or used at the site of Work under this Contract, the CONTRACTOR shall notify the Police Department for instructions relative to the regulations for possession and use of explosives in the Project area. The CONTRACTOR shall obtain all required permits or licenses for possession and use of explosives on the site of construction. In addition the CONTRACTOR shall be responsible for:
  - 1. A man who shall be responsible for the explosive materials at all times.
  - 2. The keeping of records which shall show by date the explosive materials delivered on the site, the explosive materials used for construction, and the materials removed from the site after blasting is completed.
  - 3. The storage of explosive materials overnight off the site of construction under this Contract.

4. The immediate reporting to the Police Department of unaccounted-for-explosive material.
- F. All records relating to the possession and use of explosive materials under this Contract shall be open to inspection by the Police Department and the OWNER, at any time.
- G. The use of explosives on privately owned properties shall be subject to additional requirements of the above-mentioned property OWNER.
- H. In addition to other requirements specified and all other measures, the CONTRACTOR shall be held responsible for completely, adequately, and carefully covering all blasts with suitable blasting mats in such a manner as to prevent damage to landscape features, structures, facilities, or other surrounding objects, and in a manner that will prevent injury to persons.
- I. The use of the maximum number of drill holes, together with the minimum number of explosives in each drill hole and using split-second delayed caps, is the preferred method of accomplishing the blasting operations in conjunction with the rock excavation.
- J. The CONTRACTOR shall keep blasting logs of all his blasting operations. The blasting logs shall include all pertinent information with respect to personnel, times, locations, description of charges, methods, details of blasting patterns, excavations, and such other information as may be required. The CONTRACTOR shall furnish to the OWNER each day that blasting operations are performed, certified copies of the CONTRACTOR'S blasting logs covering all of his blasting operations.
- K. Unless specifically permitted, no blasting shall be done between the hours of sunset and sunrise on any day and no blasting will be allowed on Sundays or legal holidays.

#### ARTICLE 19: INSURANCE

The CONTRACTOR shall provide the following insurances in accordance with the General Conditions:

A. Workmen's Compensation Insurance

The CONTRACTOR shall provide adequate statutory Workmen's Compensation Insurance for all labor employed on the Project who may come within the protection of such laws and shall provide Employer's General Liability Insurance in the amount of \$100,000 for the benefit of his employees not protected by such compensation laws.

B. Contractor's Comprehensive Public Liability and Property Damage Liability Insurance

The CONTRACTOR shall carry Comprehensive General Liability Insurance with broad form of Contractual General Liability Endorsement attached, providing for a

limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of one (1) person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and Contractor's Comprehensive Property Damage Liability Insurance providing for a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property in any one accident; and subject to a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period.

C. Owner's Protective Liability And Property Damage Insurance

The CONTRACTOR shall provide the OWNER an insurance policy written in the name of the OWNER, its employees, servants and agents, and extended to include the interests of the Engineer, its employees, and agents; to protect the OWNER and the Engineer from any liability which might be incurred against them as a result of any operations of the CONTRACTOR or his subcontractors, or their employees. Such insurance shall provide for a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or the death of any one (1) person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property in any one accident, and subject to a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period.

D. Comprehensive Automobile Liability and Property Damage Insurance

The CONTRACTOR shall carry Comprehensive Automobile Liability Insurance covering all owned vehicles, hired vehicles, or non-owned vehicles in the amount of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or the death of any one (1) person; and subject to that limit for each person a total of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or the death of two (2) or more persons in any one accident; and Property Damage coverage in the amount of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property.

E. Insurance Covering Special Hazards

Special hazards shall be covered by rider or riders to the Public Liability Insurance And Property Damage Insurance policy or policies hereinabove required to be furnished by the CONTRACTOR, or by separate policies of insurance as follows:

1. Property Damage Liability arising out of the collapse of, or structural injury to any building or structure due to excavation (including borrowing, filling, or backfilling in connection therewith), tunneling, pile driving, cofferdam work, or caisson work; or to moving, shoring, underpinning, razing, or demolition of

any building or structure, or removal or rebuilding of any structural support thereof.

2. Property Damage Liability for injury to or destruction of property arising directly or indirectly from blasting or explosions, however caused, other than pressure, prime movers, machinery or power-transmitting equipment.
3. Property Damage Liability for injury or destruction of wires, conduits, pipes, mains, sewers, or other similar property or any apparatus in connection therewith, below the surface of the ground, arising from and during the use of mechanical equipment for the purpose of excavating or drilling within the Project limits; injury to or destruction of property at any time resulting therefrom.
4. The CONTRACTOR shall require similar insurance in such amounts to be taken out and maintained by each subcontractor.

F. Builder's Risk Insurance

During the progress of Work, the CONTRACTOR shall effect and maintain BUILDERS'S RISK INSURANCE ON COMPLETED VALUE FORM against loss by fire, lightning, windstorm, hurricane, cyclone, tornado, hail, explosion, riot, riot attending strike, aircraft, smoke and vehicle damage, vandalism, and malicious mischief upon all Work in place and all material stored at the building site, whether or not covered by partial payments made by the OWNER. This insurance shall be in an amount equal to 100 percent (100%) of the insurable portion of the Project and shall be for the benefit of the OWNER, the CONTRACTOR, and each subcontractor, as their interest may respectively appear.

If there are any existing adjacent or adjoining structures presently used by the OWNER, the risk of the existing adjacent or adjoining structures will be by the OWNER.

ARTICLE 20: PROTECTION OF TRAFFIC

- A. The CONTRACTOR shall inconvenience traffic as little as possible and shall provide suitable barricades, red lights, "Danger" or "Caution" signs at all places where the Work constitutes in any way a hazard to the public. All barricades and obstructions along public roads shall be illuminated at night and all lights for this purpose shall be kept burning from sunset to sunrise.
- B. In addition, the CONTRACTOR shall provide and maintain such other warning signs and barricades in other areas as may be required for the safety of those employed in the Work or visiting site.
- C. The CONTRACTOR shall provide watchmen at particularly dangerous locations such as railroads, heavily traveled roadways and similar locations, and where ordered by the OWNER.

- D. Access to private properties over driveways shall be maintained. Temporary structures erected by the CONTRACTOR to accomplish this shall be safe. The CONTRACTOR shall be liable for any damage or injury resulting from the Work.
- E. Arrangements for traffic protection and control, detours, barricades, danger signs and warning lights shall be provided in accordance with local jurisdictional authorities' requirements.
- F. Efforts shall be made to preserve two lane traffic on all roads, except in areas where it becomes necessary, then one lane of traffic will be open for traffic. At all road crossings where "open cut construction" will be allowed one lane of traffic will be preserved.
- G. When it is necessary to close a street temporarily, detours shall be provided and plainly and adequately marked. Adequate barricades, lights and other warnings shall be provided and erected to protect the public from the Work. The CONTRACTOR shall provide uniformed signal men to direct traffic at major intersections and as directed by the Engineer.
- H. No additional compensation shall be allowed for traffic control. All costs thereof shall be included in the lump sum and unit prices Bid for the Work, unless specifically noted in the Bid Form/Bid Proposal.

#### ARTICLE 21: START-UP TESTS

The CONTRACTOR is responsible for scheduling and coordinating all required start-up tests and inspections with the Building Official and Deputy State Fire Marshal (for those project involving building structures) in accordance with all applicable State and local codes. The CONTRACTOR is further required to schedule and coordinate all appropriate start-up tests, training, etc. with all equipment vendors, subcontractors, etc. for all equipment.

#### ARTICLE 22: AS-BUILT DRAWINGS

The CONTRACTOR shall furnish complete as-built information on one (1) set of paper prints. The as-builts shall contain information such as location and type of improvements installed. The original drawings may be used as base mapping for this task - the CONTRACTOR does not have to verify any existing information on said drawings.

#### ARTICLE 23: DISASTER RECOVERY SERVICES

From time to time, including but not specifically limited to declared disasters from man-made or natural events, the Town may use this contract for disaster recovery and emergency response activities, including debris removal, emergency repair and restoration of public infrastructure and utilities, and permanent repairs to same. The Contractor must comply with all the Stafford Act and all federal (FEMA) and state (RIEMA) public assistance program preferences, guidelines, rules, and regulations.

## SCOPE OF WORK & TECHNICAL SPECIFICATIONS

### GENERAL DESCRIPTION OF WORK

Work to be performed shall include the following:

For all areas indicated on the attached plan entitled “*Proposed Parking Lot Restoration Plan Narragansett Town Beach South Parking Lot 39 Boston Neck Road, Assessor’s Plat B, Lot 6*” dated March 13, 2013 (PLAN), the proposed work shall include the following: Provide and install sedimentation and erosion control as necessary and as directed by the Owner; saw-cut parking lot entrance(s) and remove asphalt, adjust utility structures as required; furnish gravel fill material as necessary and fill & compact damaged subgrade areas as shown on the plans; pulverize / reclaim existing asphalt & entire area to be repaved to a depth of 8” in conformance with Section 406 (COLD RECYCLED BASE COURSE) of the “*Rhode Island Department of Transportation Standard Specifications for Road and Bridge Construction*” and as directed by the Owner; compact and fine grade subgrade providing processed gravel as necessary; remove and dispose excess pulverized material; repave parking lot with 1½” bituminous asphalt (BINDER COURSE) binder course (compacted thickness) and 1½” bituminous asphalt (Class I-1) surface course (compacted thickness); reinstall existing concrete car “logs”; furnish & install additional concrete car “logs” as necessary; furnish and install new pavement markings. New pavement marking shall demark all pre-existing parking space striping as indicated on the attached plan; furnish maintenance and protection of traffic materials and services as may be required to execute work. All work shall be complete and include all incidentals. Note that asphalt pulverization / reclamation and repaving shall be full area of existing area to be paved and shall include full extents of existing pavement within areas indicated on the plans; provide materials and compaction testing as described herein. Where new work matches existing asphalt, asphalt shall be saw cut. Note that the following are not included in this contract: plantable soil, general grass seeding, and re-set traffic / parking signs.

All work shall conform to the applicable specifications of the Rhode Island Department of Transportation Standard Specifications for Road and Bridge Construction, 2004 edition and latest addenda.

See PLAN for additional details and scope of work items.

All work shall be in conformance with a CRMC permit to be issued for this project. The Town will make application to the CRMC for such permit.

Standard details for this project are Rhode Island Standard Details (2004 edition) with all revisions, or the Town of Narragansett Standard Details as noted on the plans.

All traffic control devices and signage as may be necessary shall be in accordance with U.S. Department of Transportation Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD), Millennium edition or latest revision.

Refer to Article 23 of the Special Conditions for information regarding FEMA contractual requirements.

The Town of Narragansett will be providing construction project administration and will be in charge of the work and will make all decisions in its own behalf. A representative of the Town will inspect this project.

If two details are similar (Town's and RIDOT's) and a conflict between the Town's standards and the State's standards arise, then the RIDOT standard shall prevail, or the more stringent of the standards shall be used. All materials used on the project shall be from State-approved sources.

## TESTING LABORATORY SERVICES

### PART 1 – GENERAL

#### 1.1 SUMMARY

A. This Section consists of requirements for the services of Independent Testing Laboratories to perform specified testing of work and materials at the Project site or at point of manufacture.

#### 1.2 REQUIREMENTS

A. The Contractor shall pay all charges of the Testing Laboratory. Employment of Testing Laboratory shall in no way relieve Contractor of his obligations to perform work in accordance with Contract.

B. The Contractor shall select and employ an Independent Testing Laboratory, approved by the Owner and holding current certification with the State of Rhode Island, prior to the commencement of the Work, to perform soil and asphalt testing services as well as other field testing services required by the Contract Documents. Laboratories shall also meet qualifications listed herein for the types of testing to be conducted.

C. Earthwork Field Quality Control:

1. Contractor shall engage testing agency to inspect and test each fill, backfill layer, gravel course, and recycled asphalt base layer(s). Proceed with subsequent earthwork operations only after test results for previously completed work comply with requirements.

2. Testing agency shall test compaction of soils in place according to ASTM D 1556, ASTM D 6938, and the RIDOT “Blue Book”, as applicable and when directed by the Owner. Tests shall be performed at the following locations and frequencies:

2.1. Paved Areas: At subgrade and at each compacted fill and backfill layer, at least 10 tests uniformly distributed throughout the compacted areas to be paved, or at locations as directed by the Owner.

2.2. Trench Backfill: At each compacted initial and final backfill layer, at least one test for each 150 feet or less of trench length, but no fewer than two tests.

3. When testing agency reports that subgrades, fills, backfills, or recycled asphalt layers have not achieved degree of compaction specified, scarify and moisten or aerate, or remove and replace material to depth required; recompact and retest until specified compaction is obtained at no additional cost to the Owner.



D. Bituminous Pavement Field Quality Control:

1. Testing Agency: Contractor shall engage a qualified independent testing and inspection agency to perform field tests and inspections and to prepare reports. The Contractor shall will also be responsible for coordinating with the testing agency and the Owner for required testing.

1.1. Testing agency will conduct and interpret test and state in each report whether tested Work complies with or deviates from specified requirements.

2. Additional testing and inspection, also at Contractor's expense, will be performed to determine compliance of replaced or additional work with specified requirements.

3. Thickness: In-place compacted thickness of bituminous concrete course will be determined according to ASTM D 3549.

4. Surface Smoothness: Finished surface of each bituminous concrete course shall be tested for compliance with smoothness tolerances.

5. In-Place Density: Testing agency shall take samples of uncompacted paving mixtures and compacted pavement according to ASHTO T 168.

5.1. Reference maximum theoretical density will be determined by averaging results from four samples of bituminous concrete mixture delivered daily to site, prepared according to ASHTO T 209, and compacted according to job-mix specifications.

5.2. In-place density of compacted pavement shall be determined by one of the following methods according to ASTM D 1188 or ASTM D 2726.

a. One core sample shall be taken for every 8000 square feet or less of installed pavement, with no fewer than 3 cores taken.

b. Field density of in-place compacted pavement may also be determined by nuclear method according to ASTM D 2950 and correlated with ASTM 1188 or ASTM D 2726. Tests shall be taken for every 8000 square feet or less of installed pavement

1.3 SUBMITTALS

A. Contractor shall submit for Owner's approval the name and qualifications of the Independent Testing Laboratory prior to the commencement of work.

PART 2 – PRODUCTS

A. Not used.

PART 3 – EXECUTION

3.1 LABORATORY DUTIES

- A. Demonstrate expertise in providing services as specified in the Contract Documents.
- B. Test the samples submitted by the Contractor.
- C. Cooperate with Owner and Contractor(s); provide qualified personnel promptly on notice. Perform specified inspections, sampling and testing of materials and methods of construction; ascertain compliance with requirements of the Contract Documents.
- D. Testing Laboratory shall perform specified inspections, sampling, testing of materials and methods of construction as described in the Contract Documents.
- E. The Testing Laboratory shall promptly notify the Owner of observed regularities or deficiencies of work or products and shall perform additional testing as required. The Testing Laboratory shall promptly submit two (2) copies or written reports for each test and inspection to the Owner and one copy to the Contractor. Each report shall include:
  - 1. Date issued.
  - 2. Project title and number.
  - 3. Testing laboratory name, address, and telephone number.
  - 4. Name and signature of filed and/or laboratory inspector.
  - 5. Date, time, and location of sampling or inspection.
  - 6. Record of temperature and weather conditions.
  - 7. Date of test.
  - 8. Identification of products and Specification Section.
  - 9. Location of sample or test in the Project. Sample locations shall be shown on site plan sketch.
  - 10. Type of inspection or test.
  - 11. Results of test and compliance with Contract Documents.
  - 12. Interpretation of test results.
- F. The Testing Laboratory shall not be authorized to release, revoke, alter, or enlarge upon any requirements of the Contract Documents and Laboratory shall not approve or accept any portion of the Work that does not conform to these Specifications.
- G. Laboratory may not assume any duties of Contractor, and the Laboratory has no authority to stop work.

### 3.2 CONTRACTOR RESPONSIBILITY

- A. Cooperate with Laboratory personnel and provide access to work and facilitate the execution of the Laboratory's required services.
- B. Provide to Laboratory representative samples of materials to be tested in required quantities.

C. Furnish labor and facilities to provide access to work to be tested, to obtain and handle samples at the site, and to facilitate inspections and results.

D. Notify Laboratory sufficiently in advance of operations to allow for its assignment of personnel and schedule of tests.

E. Arrange with Laboratory, and pay for, any additional samples and testing required for Contractor's convenience.

F. Arrange with Laboratory, and pay for, any additional inspections, sampling, and testing required when initial tests indicate that work does not comply with Contract Documents.

G. Arrange for and conduct any inspections required by State and/or local building, fire protection, safety, health or environmental officials.

H. Testing shall be provided by the Contractor; the Contractor shall supply any laborers and equipment necessary for performing the testing at no additional cost. This work may include, but is not limited to providing materials and samples and revising or repairing work to meet the intent of the plans and specifications. The Contractor is also responsible for any costs associated with conformance testing performed by an Independent Laboratory.

#### PART 4 – MEASUREMENT AND PAYMENT

##### 4.1 MEASUREMENT

A. This work will not be measured for payment

##### 4.2 PAYMENT

A. This work shall be paid for as the Lump Sum price bid item Item No. 019 (Compaction Testing (Soil 7 Pavement per Specs)) and shall include all products, materials, equipment, labor, tools, and incidentals thereto, complete and accepted by the Owner.

END OF SECTION

# EXHIBIT A

## PLAN

*“Proposed Parking Lot Restoration Plan Narragansett Town Beach South Parking Lot 39  
Boston Neck Road, Assessor’s Plat B, Lot 6”*



- NOTES:
1. See scope of work for description of proposed work to be performed.
  2. Contractor shall install and maintain soil erosion and sedimentation control measures (RI STD.. 7.2.0 or 9.1.0 as appropriate) for the duration construction. staked haybales and/or erosion control fence shall be installed along the entire down-gradient limits of work prior to the commencement of construction.
  3. Contractor shall comply with all conditions of the CRMC permit for this project.
  4. All areas to be paved shall be pulverized / reclaimed in accordance wit section 406 of the "Rhode Island Department of Transportation Standard Specifications for Road and Bridge Construction" (BLUE BOOK). Pulverization depth shall be 8" minimum.
  5. Entire area to be repaved shall be graded and compacted in accordance with section 406 of the BLUE BOOK. Final finished grade of the paved area shall be the same as existing grade. Contractor shall provide trimming, fine grading, and compaction to achieve this finished grade requirement. All excess pulverized material shall be removed and proerly disposed by the contractor at no additional cost.
  6. All work shall conform the the applicable section to the "Rhode Island Department of Transportation Standard Specifications for Road and Bridge Construction", 2004 edition (BLUE BOOK). Measurement and Payment shall be per the BLUE BOOK.
  7. Approximate area to be repaved is 9781 square yards. Contractor is responsible for verifying all quantities.
  8. Asphalt to be furnished and installed: Base course: shall be "BINDER COURSE" as specified in the BLUE BOOK. Finished compacted thickness shall be 1 ½". Finish course: shall be "CLASS I-1" as specified in the BLUE BOOK. Finish compacted thickness shall be 1 ½".
  9. All materials furnished for this project shall conform the the applicable sections of the BLUE BOOK.
  10. Remove and dispose all existing fence post bases (ajacent to concrete wall at east parking lot edge). Furnish and install new new fence post bases after pavement pulverization. New fence post bases shall match existing (i.e. as a sleeve sized to accecpt standard steel fence pole). New fence post bases shall be spaced 10 feet on center, extents shall be entire east edge of parking lot (approx. 660 lf). Foundation shall conform to foundation shown on RI STD. 31.2.0.



LOCUS PLAN

